

Spencer

OGC 83-05341
27 June 1983

MEMORANDUM FOR: See Distribution

FROM:

[redacted]
Chief, Legislation Division, OGC

STAT

SUBJECT: S. 888, "Economic Equity Act"

1. Attached for your information, review and comment is S. 888, introduced as a comprehensive measure to achieve equity for women in a number of areas.
2. The bill contains five titles on the following topics:
 - Title I seeks to make changes in tax and retirement areas. Most of the provisions amend either the Internal Revenue Code or the Employee Retirement Income Security Act of 1974. However, section 109 amends title 5, United States Code, to add new definitions and amend several sections to expand the rights and benefits of former spouses. For example, subsection 109(b) would add a new section 834(l)(a) to title 5 which would entitle a former spouse of a civil service employee or retiree, married to that employee or retiree for not less than 10 years of creditable service, to a pro rata share of any civil service retirement annuity or survivor benefit unless expressly ordered otherwise by a court.
 - Title II proposes changes in the Internal Revenue Code in the area of dependent care.
 - Title III would prohibit discrimination in insurance or annuities on the basis of race, color, religion, sex, or national origin.
 - Title IV would require the head of each agency to review the agency's rules, regulations, programs, and policies to identify and correct any which result in discrimination on the basis of sex.
 - Title V would strengthen and expand the state child support enforcement programs. Note that a new section would be added to allow a court to order child support payments to be allotted from a federal civilian employee's wages.

In addition to being included in this comprehensive legislation, most of these reforms have been introduced as separate pieces of legislation.

3. The only portions of this legislation which appear to be of potential concern to the Agency are sections 109 (Former Spouses), 401(a) (Agency Regulations), and 511(a) (Allotment of Federal Pay for Child Support). The analysis of these provisions has been marked in the attached explanatory statement on the Bill.

4. OMB has requested our views on S. 888 no later than 1 July. Therefore, please relay any comments you may have, in writing or by telephone, to [redacted] of the Legislation Division [redacted] by COB 30 June.

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Attachment

Distribution:

STAT

[redacted]
Federal Women's Program Manager [redacted]

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(OGC/GMC/MAW)

- 1 - GMC Chrono
- 1 - KAD Chrono
- 1 - OGC Chrono
- ✓ 1 - LED File: Former Spouses
Economic Equity Act



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

June 21, 1983

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

General Counsel

83-05246

TO: Legislative Liaison Officer

Department of Commerce
Department of Health and
Human Services
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury

Council of Economic Advisers
Commission on Civil Rights
Equal Employment Opportunity
Commission
Office of Personnel Management
(Sections 109 and 511)
Pension Benefit Guaranty Corporation
Small Business Administration
Central Intelligence Agency
(Section 109)

SUBJECT: S. 888, "Economic Equity Act of 1983".

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Friday, July 1, 1983.

Questions should be referred to David Lindeman (395-5611) or to Phoebe Felk (395-3736), the legislative analyst in this office.

Naomi R. Sweeney
Naomi R. Sweeney for
Assistant Director for
Legislative Reference

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CONGRESSIONAL RECORD — SENATE

S 3796

against trading in securities while in possession of material nonpublic information; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CHILES:

S. 911. A bill to establish a Commission to make recommendations for changes in the role of nonparty multicandidate political action committees in the financing of campaigns of candidates for Federal office; to the Committee on Governmental Affairs.

By Mr. STAFFORD (for himself and Mr. THURMOND) (by request):

S. 912. A bill to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM:

S. 913. A bill for the relief of Mildred C. Elide of Leavenworth, Kans.; to the Committee on the Judiciary.

By Mr. McCURE (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BURDICK, Mr. COCHRAN, Mr. COHEN, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HUBBLESTON, Mr. JEPSEN, Mr. JOHNSTON, Mr. MATTINGLY, Mr. MELCHER, Mr. PRESSLER, Mr. PROXMIER, Mr. RUDMAN, Mr. SASSER, Mr. SIMPSON, Mr. TOWER, Mr. WALLOP, Mr. ZORINSKY, Mr. RANDOLPH, Mr. NICKLES, Mr. THURMOND, Mr. STEVENS, Mr. SYMONS, Mr. ARMSTRONG, Mr. HUMPHREY, and Mr. GARN):

S. 914. A bill to protect firearms owners' constitutional rights, civil liberties, and rights to privacy; to the Committee on the Judiciary.

By Mr. GORTON (for himself, Mr. RUDMAN, Mr. DANFORTH, Mr. STAFFORD, Mr. EAGLETON, and Mr. BINGAMAN):

S. 915. A bill entitled the "Taxpayer Anti-trust Enforcement Act of 1983"; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. McCURE, Mr. JACKSON, Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. MURKOWSKI, Mr. SYMONS, Mr. MELCHER, Mr. BAUCUS, Mr. BURDICK, Mr. GARN, Mr. HATCH, Mr. GOLDWATER, Mr. WALLOP, Mr. DECONCINI, Mr. LAXALT, Mr. ARNOLD, Mr. FORD, Mr. SASSER, and Mr. MATSUNAGA):

S. 916. A bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. GARN (for himself, Mr. TOWER, Mr. LOGAN, and Mr. RIEGLE):

S.J. Res. 70. A joint resolution to designate the week beginning April 17, 1983, as "National Building Safety Week"; to the Committee on the Judiciary.

By Mr. PELL (for himself and Mr. MATIAS):

S.J. Res. 71. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

By Mr. EAGLETON (for himself and Mr. PROXMIER):

S.J. Res. 72. A joint resolution proposing an amendment to the Constitution of the United States with respect to the eligibility of naturalized U.S. citizens to become Pres-

dent or Vice President; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM:

S. Res. 96. A resolution to refer S. 913 entitled "A bill for the relief of Mildred C. Elide of Leavenworth, Kansas" to the chief judge of the U.S. Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 97. A resolution to direct the Senate Legal Counsel to represent Senator Howard M. Metzenbaum in *Karchin v. Sen. Howard Metzenbaum*, Case No. 83-CV-1413; considered and agreed to.

S. Res. 98. A resolution to direct the Senate Legal Counsel to represent Senator Thurmond in *William W. Pearce v. The Honorable Strom Thurmond, et al.*, Civil Action No. 83-747; considered and agreed to.

By Mr. BAKER (for Mr. HATFIELD):

S. Con. Res. 20. A concurrent resolution making corrections in the enrollment of H.R. 1718; considered and agreed to.

By Mr. COHEN (for himself, Mr. PACKWOOD, Mr. HOLLINGS, and Mr. BRADLEY):

S. Con. Res. 21. A concurrent resolution expressing the sense of the Congress respecting the administration of title X of the Public Health Service Act; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. PACKWOOD, Mr. HATFIELD, Mr. HART, Mrs. KASSEBAUM, Mr. BAUCUS, Mr. BURDICK, Mr. INOUYE, Mr. BOSCHWITZ, Mr. KENNEDY, Mr. COHEN, Mr. WALLOP, Mr. HEINZ, Mr. RIEGLE, Mr. MITCHELL, Mr. MELCHER, Mr. TSONGAS, Mr. DIXON, Mr. LEAHY, Mr. MATSUNAGA, Mr. MATHIAS, Mr. PRESSLER, Mr. COCHRAN, and Mr. GLENN):

S. 888. A bill entitled the "Economic Equity Act"; to the Committee on Finance.

ECONOMIC EQUITY ACT

Mr. DURENBERGER. Mr. President, this morning I am reintroducing, on my own behalf and on behalf of Senators PACKWOOD, HATFIELD, HART, KASSEBAUM, BAUCUS, BURDICK, INOUYE, BOSCHWITZ, KENNEDY, COHEN, WALLOP, HEINZ, RIEGLE, MITCHELL, MELCHER, TSONGAS, DIXON, LEAHY, MATSUNAGA, MATHIAS, PRESSLER, COCHRAN, and GLENN, the Economic Equity Act, a bill to provide equal economic opportunities for women.

Two years ago I had the privilege of leading a similar bipartisan coalition in introducing the original Economic Equity Act. The bill drew editorial endorsement from dozens of newspapers across the Nation, and virtually all of the organizations advocating equal economic rights for women. Four parts of the bill—equal access to agricultural

credit, child and dependent care reform, repeal of the widow's estate tax, and military/foreign service pension reform—became law. Most important, however, is the fact that the Economic Equity Act focused public attention on the concept of "economic equity," a phrase that has now been echoed from the pages of individual commentators to the President's state of the Union address.

Our society has been slow in giving women a fair opportunity to share the benefits of the society they have worked to create. It took more than a century for women in many parts of the country to gain the basic right to enter contracts and own property.

It took 143 years for women to win the right to vote.

Even in 1980, more than two centuries after the Declaration of Independence, women are still restrained by a system of laws and regulations that deny them equal access to economic opportunities.

Statistics tell some of the story. Women earn only 59 percent of what men earn—and that percentage has actually decreased over the past 15 years. Of the 441 occupations listed by the U.S. Census Bureau, women are concentrated primarily in the 20 lowest paid job classifications. One out of every three families which depends on a woman for its sole source of support lives in poverty. In fact, although women comprise only 42 percent of the labor force, they comprise 66 percent of those living in poverty.

This is the kind of disparity that should shock the conscience of any nation founded on the principle of equal opportunity. But the real tragedy is that Federal laws and regulations are a primary, if not the primary barrier to economic opportunity for millions of women. While we pride ourselves on being a nation of laws rather than men, we are still, to a large extent, a nation of laws made by men. Only one woman has ever served on the Supreme Court. As we entered the 1980's, only 22 had ever served on the Federal bench in its 200-year history.

There have been 1,722 Senators since the beginning of the Republic; only 12 have been women. The result has been a pattern of Federal policies that seem neutral on their face, but when applied to real world situations create deep disparities between the opportunities available to men and those available to women. Statistics tell only part of the story. The real impact of this legal discrimination is measured in the way it affects the lives of average people. As persuasive as broad statistics may be, the real impact of these provisions on the personal lives of women makes the most telling case for the legislation we introduce this morning.

Because she enters the work force at an earlier age, the average woman must work several years longer than

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the average man to gain vested right to pension benefits.

Present law permits a working husband to unilaterally terminate his wife's survivorship benefits. The wife has no appeal, and she is not entitled to notice.

Discrimination in Federal regulations is so pervasive that the interim report of the Justice Department task force on sex discrimination required 346 pages just to summarize its findings.

We talk of marriage as an equal partnership. But in our tax and retirement policies, a working husband's income is considered his income, and the noneconomic contribution of a woman who works in the home counts for little or nothing. Laws authorizing individual retirement accounts continue to allow the working husband to claim the benefit of that account while denying the same right to the so-called nonworking wife.

Despite a decade of divorce law reform many wives still have no claim whatsoever to pension survivorship benefits they accrued throughout 10, 15, or 20 years of marriage. Those benefits stay with the husband and often end up flowing to a second wife. Courts are powerless to apportion those benefits even where all parties request that it be done.

As incredible as it may seem, military inheritance laws continue to give a preference to brothers over sisters, fathers over mothers, sons over daughters. Although substantial progress has been made in this respect, statutes governing promotion opportunities continue to differentiate between men and women. And most women enlistees continue to be focused in the lowest grades and lowest skilled MOS.

Despite extreme publicity surrounding child support and alimony awards, the economic benefits granted women in divorce proceedings go uncollected in a staggering 50 percent of the cases.

Finally, society has done very little to grant displaced homemakers the kind of assistance given other disadvantaged segments of the population. Nor has it recognized the economic benefits that would flow from fostering the kind of day-care system that would allow millions of women who desire to work to enter the mainstream of the American economy.

Just about every woman in this country will face one or more of these barriers at some time in her life. For most, they form a succession of roadblocks that progressively steal the quality of economic opportunity that most of us take for granted. Consider the life history of an all too typical American woman:

Enters the labor force at 18: Discovers she must work 7 years to qualify for the same pension rights that most men acquire after 4 to 5 years of work.

Marries and bears children: Her ability to pursue a career—if she wants to do so—is restricted by the cost and availability of day care. By remaining

in the home, she forfeits her right to qualify for individual retirement benefits.

She divorces at age 40: Husband unilaterally terminates her survivorship benefits. She faces no more than a 50-percent chance of collecting maintenance or child support granted in the divorce decree. She enters the labor force with few skills and little job experience. She cannot qualify for programs such as the targeted job tax credit that are designed to assist disadvantaged groups overcome barriers to labor force entry. As an unmarried household head, she is entitled to a standard deduction of \$2,300—compared to the \$3,400 that applies to married couples and surviving spouses.

These are only a few examples, but they are a representative sample of the economic obstacles that confront American women throughout their lives. It is a situation that cannot endure in a nation of conscience, and a situation we intend to change.

The bill I introduce this morning—the Economic Equity Act of 1983—is the most comprehensive economic rights package ever introduced in the U.S. Senate. It will not resolve every source of economic discrimination that exists in this country, but it will insure that Government plays a constructive role in removing roadblocks to economic opportunity, rather than a destructive role in creating or maintaining those roadblocks.

The 75-page bill alters Federal law in five critical areas—tax and retirement policies, child and dependent care, accessibility of insurance, enforcement of maintenance and child support orders, and the Federal regulatory process. Its provisions—which I will detail more fully in a moment—were developed by myself, Senator PACKWOOD and Senator HARTFIELD over a 12-month period. In that development process we are indebted to dozens of women's groups from Minnesota, Oregon, and throughout the Nation, who gave their time freely to develop innovative solutions to the economic problems that have plagued our society throughout our lifetimes. I want to offer special gratitude to the groups that endorsed the bill prior to its introduction.

These groups include American Association of University of Women, Women's Equity Action League, Women in Communications, Federally Employed Women, Wider Opportunities for Women, National Women's Party, Women's Legal Defense Fund, National Women's Political Caucus, Women's Division of the United Methodist Church, Older Women's League, League of Women Voters, National Federation of Business and Professional Women, the National Council of Negro Women, Pension Rights Center, National Organization for Women, National Council of Catholic Women, National Black Child Development Institute, National Education Association, Displace Homemaker's

Network, Inc. American Nurses Association, B'nai B'rith Women, Leadership Conference on Civil Rights, Women U.S.A., National Federation of Republican Women.

The Economic Equity Act is intended to embody the best available thinking on how to address the economic inequalities confronting American women. There are areas, like social security, which the bill does not address. But in bypassing these areas for the moment, we are not deprecating their importance. We are only suggesting that workable solutions to these problems have not yet been refined to the point where we can begin legislative action. We hope to use the Economic Equity Act to stimulate discussion in these areas and develop new approaches that can be embodied in the bill in future months.

The Economic Equity Act is a challenge both to the Congress and to the conscience of the American people. We are truly at a turning point in American history, a point where the Nation is finally taking the bitterly difficult actions necessary to restore the strength of an economy that has been the standard of the world for a century-and-a-half. But America's new beginning must be a beginning for all Americans. Every person in this Nation suffers a personal loss when the economic contribution of half our population is restrained by archaic laws and regulations. The time has truly come for us to begin anew, and to insure that in America's second 200 years, we will indeed be one Nation, with equal opportunity for all.

Mr. President, I ask unanimous consent that the bill and a summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Economic Equity Act of 1983".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—TAX AND RETIREMENT MATTERS

- Sec. 101. Compensation of spouse may be taken into account in determining income tax deduction for retirement savings.
- Sec. 102. Alimony treated as compensation in determining income tax deduction for retirement savings.
- Sec. 103. Joint and survivor annuity requirements for retirement plans.
- Sec. 104. Prohibition against assignment of benefits under retirement plans not to apply in divorce, etc., proceedings.
- Sec. 105. Exemption from ERISA preemption for judgments, decrees, and orders pursuant to State domestic relations law.
- Sec. 106. Lowering of age limitation for minimum participation standards for retirement plans.

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Sec. 107. Counting years of service after age 21 for resting under retirement plans.

Sec. 108. Continuation of benefit accruals under retirement plans while the employee is on approved maternity or paternity leave.

Sec. 109. Reforms relating to spousal benefits under civil service retirement.

Sec. 110. Displaced homemakers established as a targeted group for purposes of computing the income tax credit for employment of certain new employees.

Sec. 111. Zero bracket amount for heads of households in determining income tax increased to amount for joint returns, etc.

TITLE II—DEPENDENT CARE PROGRAM

Sec. 201. Increase in the tax credit for expenses for household and dependent care services necessary for gainful employment.

Sec. 202. Certain organizations providing dependent care included within the definition of tax-exempt organizations.

Sec. 203. Tax credit for household and dependent care services necessary for gainful employment made refundable.

Sec. 204. Child care information and referral services.

TITLE III—NONDISCRIMINATION IN INSURANCE

Sec. 301. Short title of title.

Sec. 302. Findings and policy.

Sec. 303. Definitions.

Sec. 304. Unlawful discriminatory actions.

Sec. 305. State or local enforcement prior to judicial enforcement under this title.

Sec. 306. Civil action by or on behalf of aggrieved person.

Sec. 307. Civil action by the Attorney General involving issues of general public importance.

Sec. 308. Jurisdiction.

Sec. 309. Judicial relief.

Sec. 310. Inapplicability.

Sec. 311. Effective date of title.

TITLE IV—REGULATORY REFORM AND GENDER NEUTRALITY

Sec. 401. Revision of regulations, etc., and legislative recommendations.

Sec. 402. Rule of statutory construction relating to gender.

TITLE V—CHILD SUPPORT ENFORCEMENT

PART A—PROGRAM IMPROVEMENTS

Sec. 501. Purpose of the program.

Sec. 502. Collection of past-due support from Federal tax refunds.

Sec. 503. Child support clearinghouse.

Sec. 504. Strengthening of State child support enforcement procedures.

Sec. 505. Exceptions to discharge in bankruptcy.

PART B—FEDERAL EMPLOYEE PROVISIONS

Sec. 511. Allotment of Federal pay for child and spousal support.

TITLE I—TAX AND RETIREMENT MATTERS

COMPENSATION OF SPOUSE MAY BE TAKEN INTO ACCOUNT IN DETERMINING DEDUCTION FOR RETIREMENT SAVINGS

Sec. 101 (a) Paragraph (2) of section 219(f) of the Internal Revenue Code of 1954 (relating to retirement savings) is amended to read as follows:

“(2) MARRIED INDIVIDUALS.—

“(A) MAXIMUM DEDUCTION.—The maximum deduction under subsection (b) shall

be computed separately for each individual, and this section shall be applied without regard to any community property laws.

“(B) INDIVIDUALS WHO RECEIVE LESS COMPENSATION THAN THEIR SPOUSES.—If any individual has less compensation includible in gross income for the taxable year than the compensation includible in the gross income of the spouse of such individual for such year, the maximum deduction under subsection (b)(1) shall be determined as if such individual had compensation includible in gross income equal to the compensation includible in the gross income of the spouse of such individual.”

(b) Subsection (c) of section 219 of such Code (relating to special rules for certain married individuals) is hereby repealed.

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

ALIMONY TREATED AS COMPENSATION IN DETERMINING DEDUCTION FOR RETIREMENT SAVINGS

Sec. 102. (a) Paragraph (1) of section 219(f) of the Internal Revenue Code of 1954 (defining compensation) is amended by inserting before the period at the end thereof “and amounts includible in gross income under section 71”.

(b) Paragraph (4) of section 219(b) of such Code (relating to certain divorced individuals) is hereby repealed.

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

JOINT AND SURVIVOR ANNUITY REQUIREMENTS FOR RETIREMENT PLANS

Sec. 103. (a)(1)(A) Section 205 of the Employee Retirement Income Security Act of 1974 (relating to joint and survivor annuity requirement) (29 U.S.C. 1055) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsection:

“(b)(1) A plan which provides that the normal form of benefit is an annuity shall not be treated as satisfying the requirements of this section unless the plan provides, with respect to any participant described in paragraph (2), a survivor annuity for the participant's surviving spouse (if such spouse is living on the survivor annuity starting date)—

“(A) which begins on the survivor annuity starting date and continues for the life of such spouse, and

“(B) the payments under which are not less than the payments which would have been made under the survivor annuity to which such spouse would have been entitled if the participant had terminated employment on his date of death, had survived and retired on the survivor annuity starting date, and had died on the day following such date.

“(2) A participant referred to in paragraph (1) is described in this paragraph if the participant—

“(A) dies before an annuity starting date under the plan with respect to the participant, and

“(B) is credited under the plan with at least 10 years of service for purposes of determining under section 203 nonforfeitable rights to accrued benefits.”

(B) Section 205(g) of such Act (29 U.S.C. 1055(g)) is amended by adding at the end thereof the following new paragraph:

“(4) The term ‘survivor annuity starting date’ means, in connection with a participant who dies before an annuity starting date under the plan with respect to the participant—

“(A) the date which would be the participant's annuity starting date if the participant had retired, prior to death, on the date on which the participant would have at-

tained the earliest retirement age under the plan.

“(B) the date of death of the participant (if later than the date specified in subparagraph (A)), or

“(C) any other date, subsequent to the dates specified in subparagraphs (A) and (B), selected by the participant's surviving spouse in accordance with plan procedures, except that such date may not be later than the date on which the participant would have attained normal retirement age under the plan had the participant lived to such date.”

(C) Section 205(d) of such Act (29 U.S.C. 1055(d)) is amended—

(1) by striking out “(whether or not an election has been made under subsection (c))”, and

(2) by adding at the end thereof the following new sentence: “In the case of an individual who was the spouse of the participant on the annuity starting date and who survives the participant, a plan shall not be treated as satisfying the requirements of this section unless the plan treats such individual as if such individual were the spouse of the participant on the date of death of the participant (whether or not divorced after the annuity starting date).”

(2) Subsection (e) of section 205 of such Act (29 U.S.C. 1055(e)) is amended to read as follows:

“(e) A plan shall not be treated as satisfying the requirements of this section unless, under the plan—

“(1) each participant has a reasonable period (as prescribed by the Secretary of the Treasury by regulations) before the annuity starting date during which the participant may elect in writing (after such participant has received a written explanation of terms and conditions of the joint and survivor annuity and the effect of an election under this subsection) not to take such joint and survivor annuity, and

“(2) such an election will not be effective unless the spouse of the participant (as of the time such election is made) consents in writing to such an election and such consent is witnessed by a plan representative or a notary public.”

(3) Subsection (f) of section 205 of such Act (29 U.S.C. 1055(f)) is repealed.

(4) Section 205(h) of such Act (29 U.S.C. 1055 (h)) is amended by striking out “under an election made under subsection (c)”

(5) Section 205(i) of such Act (29 U.S.C. 1055(i)) is amended to read as follows:

“(i)(1) Except as provided in paragraph (2), this section shall apply only if—

“(A) the annuity starting date did not occur before the effective date of this section, and

“(B) the participant was an active participant in the plan on or after such effective date.

“(2) A plan shall not be treated as satisfying the requirements of this section unless the plan provides that any participant who is not a participant described in paragraph (1)(B) may elect to receive benefits in the form of a joint and survivor annuity if such election takes place before the annuity starting date.”

(b)(1)(A) Paragraph (11) of section 401(a) of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock-bonus plans) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph:

“(B)(i) A plan which provides that the normal form of benefit is an annuity shall not be treated as satisfying the requirements of this paragraph unless the plan provides, with respect to any participant de-

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scribed in clause (II), a survivor annuity for the participant's surviving spouse (if such spouse is living on the survivor annuity starting date)—

“(I) which begins on the survivor annuity starting date and continues for the life of such spouse, and

“(II) the payments under which are not less than the payments which would have been made under the survivor annuity to which such spouse would have been entitled if the participant had terminated employment on his date of death, had survived and retired on the survivor annuity starting date, and had died on the day following such date.

“(II) A participant referred to in clause (I) is described in this clause if the participant—

“(I) dies before an annuity starting date under the plan with respect to the participant, and

“(II) is credited under the plan with at least 10 years of service for purposes of determining under section 411 nonforfeitable rights to accrued benefits.”

(B) Subparagraph (G) of section 401(a)(11) of such Code is amended—

(i) in clause (II), by striking out “and”;

(ii) in clause (III), by striking out “participant,” and inserting in lieu thereof “participant, and”; and

(iii) by adding at the end thereof the following new clause:

“(iv) the term ‘survivor annuity starting date’ means, in connection with a participant who dies before an annuity starting date under the plan with respect to the participant—

“(I) the date which would be the participant's annuity starting date if the participant had retired, prior to death, on the date on which the participant would have attained the earliest retirement age under the plan.

“(II) the date of death of the participant (if later than the date specified in subclause (I)), or

“(III) any other date, subsequent to the dates specified in subclauses (I) and (II), selected by the participant's surviving spouse in accordance with plan procedures, except that such date may not be later than the date on which the participant would have attained normal retirement age under the plan had the participant lived to such date.”

(C) Subparagraph (D) of section 401(a)(11) of such Code is amended—

“(i) by striking out “(whether or not an election described in subparagraph (C) has been made under subparagraph (C))”; and

“(ii) by adding at the end thereof the following new sentence: “In the case of an individual who was the spouse of the participant on the annuity starting date and who survives the participant, a plan shall not be treated as satisfying the requirements of this paragraph unless the plan treats such individual as if such individual were the spouse of the participant on the date of death of the participant (whether or not divorced after the annuity starting date).”

(2) Subparagraph (E) of section 401(a)(11) of such Code is amended to read as follows:

“(E) A plan shall not be treated as satisfying the requirements of this paragraph unless, under the plan—

“(i) each participant has a reasonable period (as prescribed by the Secretary by regulations) before the annuity starting date during which the participant may elect in writing (after such participant has received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this subsection) not to take such joint and survivor annuity, and

“(II) such an election will not be effective unless the spouse of the participant (as of the time such election is made) consents in writing to such an election and such consent is witnessed by a plan representative or a notary public.”

(3) Subparagraph (F) of section 401(a)(11) of such Code is repealed.

(4) Subparagraph (H) of section 401(a)(11) of such Code is amended to read as follows:

“(H)(i) Except as provided in clause (II), this paragraph shall apply only if—

“(I) the annuity starting date did not occur before the effective date of this section, and

“(II) the participant was an active participant in the plan on or after such effective date.

“(II) A plan shall not be treated as satisfying the requirements of this paragraph unless the plan provides that any participant who is not a participant described in clause (I)(II) may elect to receive benefits in the form of a joint and survivor annuity if such election takes place before the annuity starting date.”

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to plan years beginning more than one year after the date of the enactment of this Act.

(2) The amendments made by subsections (a)(5) and (b)(4) shall take effect on the date of the enactment of this Act.

PROHIBITION AGAINST ASSIGNMENT OF BENEFITS UNDER RETIREMENT PLANS NOT TO APPLY IN DIVORCE, ETC., PROCEEDINGS

Sec. 104. (a) Subsection (d) of section 206 of the Employee Retirement Income Security Act of 1974 (relating to form and payment of benefits) (29 U.S.C. 1058(d)) is amended by adding at the end thereof of the following new paragraph:

“(3) Paragraph (1) shall not apply in the case of a judgment, decree, or order (including an approval of a property settlement agreement) relating to child support, alimony payments, or marital property rights, pursuant to a State domestic relations law (whether of the common law or community property type), which—

“(A) creates or recognizes the existence of an individual's right to receive all or a portion of the benefits to which a participant or a participant's designated beneficiary would otherwise be entitled under a pension plan.

“(B) clearly identifies such participant, the amount or percentage of such benefits to be paid to such individual, the number of payments to which such judgment, decree, or order applies, and the name and mailing address of such individual, and

“(C) does not require such plan to alter the effective date, timing, form, duration, or amount of any benefit payments under the plan or to honor any election which is not provided for under the plan or which is made by a person other than a participant or beneficiary.”

(b) Paragraph (13) of section 401(a) of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new sentence: “The preceding provisions of this paragraph shall not apply in the case of any judgment, decree, or order pursuant to a State domestic relations law (whether of the common law or community property type) if such judgment, decree, or order is described in section 206(d)(3) of the Employee Retirement Income Security Act of 1974.”

“(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

EXEMPTION FROM ERISA PREEMPTION FOR JUDGMENTS, DECREES, AND ORDERS PURSUANT TO STATE DOMESTIC RELATIONS LAW

“Sec. 105. (a) Section 514(b) of the Employee Retirement Income Security Act of 1974 (relating to exemptions from preemption) (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

“(7) Subsection (a) shall not apply with respect to any judgment, decree, or order pursuant to a State domestic relations law (whether of the common law or community property type) if such judgment, decree, or order is described in section 206(d)(3).”

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

LOWERING OF AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS FOR RETIREMENT PLANS

“Sec. 106. (a) Subparagraphs (A)(i) and (B)(ii) of section 202(a)(1) of the Employee Retirement Income Security Act of 1974 (relating to minimum participation standards) (29 U.S.C. 1052(a)(1)(A)(i) and (B)(ii)) are each amended by striking out “25” and inserting in lieu thereof “21”.

“(b) Subparagraphs (A)(i) and (B)(ii) of section 410(a)(1) of the Internal Revenue Code of 1954 (relating to minimum participation standards) are each amended by striking out “25” and inserting in lieu thereof “21”.

(c) The amendments made by this section shall apply to plan years beginning more than ninety days after the date of the enactment of this Act.

COUNTING YEARS OF SERVICE AFTER AGE 21 FOR VESTING UNDER RETIREMENT PLANS

Sec. 107. (a) Section 203(b)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(b)(1)(A)) is amended by striking out “22” and inserting in lieu thereof “21”.

(b) Section 411(a)(4)(A) of the Internal Revenue Code of 1954 (relating to minimum vesting standards) is amended by striking out “22” and inserting in lieu thereof “21”.

(c) The amendments made by this section shall apply to plan years beginning more than 90 days after the date of the enactment of this Act.

CONTINUATION OF BENEFIT ACCRUALS UNDER RETIREMENT PLANS WHILE THE EMPLOYEE IS ON APPROVED MATERNITY OR PATERNITY LEAVE

Sec. 108. (a)(1) Subsection (b) of section 202 of the Employee Retirement Income Security Act of 1974 (relating to minimum participation standards) (29 U.S.C. 1052(b)) is amended by adding at the end thereof the following new paragraph:

“(5)(A) For purposes of this section, for each week of an approved maternity or paternity leave of an employee, the employee shall be deemed to have performed 20 hours of service for the employer.

“(B) For purposes of subparagraph (A), the term ‘approved maternity or paternity leave’ means any period (not to exceed 52 weeks) during which the employee is absent from work if—

“(i) such absence is by reason of pregnancy or the birth of a child of the employee or for purposes of caring for a child of the employee, and

“(ii) such absence is approved by the employer.

“(C) Subparagraph (A) shall not apply unless the employee continues to perform service for the employer after the end of the approved maternity or paternity leave or offers to do so but is not reemployed by the employer.”

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(2) Subsection (b) of section 203 of such Act (relating to minimum vesting standards) (29 U.S.C. 1053(b)) is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4)(A) For purposes of this section, for each week of an approved maternity or paternity leave of an employee, the employee shall be deemed to have performed 20 hours of service for the employer.

"(B) For purposes of subparagraph (A), the term 'approved maternity or paternity leave' means any period (not to exceed 52 weeks) during which the employee is absent from work if—

"(i) such absence is by reason of pregnancy or the birth of a child of the employee or for purposes of caring for a child of the employee; and

"(ii) such absence is approved by the employer.

"(C) Subparagraph (A) shall not apply unless the employee continues to perform service for the employer after the end of the approved maternity or paternity leave or offers to do so but is not reemployed by the employer."

(3) Section 204 of such Act (relating to benefit accrual requirements) (29 U.S.C. 1054) is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following new subsection:

"(h)(1) For purposes of this section, for each week of an approved maternity or paternity leave of an employee, the employee shall be deemed to have performed 20 hours of service for the employer.

"(2) For purposes of paragraph (1), the term 'approved maternity or paternity leave' means any period (not to exceed 52 weeks) during which the employee is absent from work if—

"(A) such absence is by reason of pregnancy or the birth of a child of the employee or for purposes of caring for a child of the employee; and

"(B) such absence is approved by the employer.

"(3) Paragraph (1) shall not apply unless the employee continues to perform service for the employer after the end of the approved maternity or paternity leave or offers to do so but is not reemployed by the employer."

(b)(1) Subsection (a) of section 410 of the Internal Revenue Code of 1954 (relating to minimum participation standards) is amended by adding at the end thereof the following new paragraph:

"(6) APPROVED MATERNITY OR PATERNITY LEAVE—

"(A) IN GENERAL.—For purposes of this section, for each week of an approved maternity or paternity leave of an employee, the employee shall be deemed to have performed 20 hours of service for the employer.

"(B) APPROVED MATERNITY OR PATERNITY LEAVE DEFINED.—For purposes of subparagraph (A), the term 'approved maternity or paternity leave' means any period (not to exceed 52 weeks) during which the employee is absent from work if—

"(i) such absence is by reason of pregnancy or the birth of a child of the employee or for purposes of caring for a child of the employee; and

"(ii) such absence is approved by the employer.

"(C) SERVICE REQUIREMENT AFTER THE LEAVE.—Subparagraph (A) shall not apply unless the employee continues to perform service for the employer after the end of the approved maternity or paternity leave or offers to do so but is not reemployed by the employer."

(2) Subsection (d) of section 411 of such Code (relating to minimum vesting standards) is amended by adding at the end thereof the following new paragraph:

"(7) APPROVED MATERNITY OR PATERNITY LEAVE—

"(A) IN GENERAL.—For purposes of this section, for each week of an approved maternity or paternity leave of an employee, the employee shall be deemed to have performed 20 hours of service for the employer.

"(B) APPROVED MATERNITY OR PATERNITY LEAVE DEFINED.—For purposes of subparagraph (A), the term 'approved maternity or paternity leave' means any period (not to exceed 52 weeks) during which the employee is absent from work if—

"(i) such absence is by reason of pregnancy or the birth of a child of the employee or for purposes of caring for a child of the employee; and

"(ii) such absence is approved by the employer.

"(C) SERVICE REQUIREMENT AFTER THE LEAVE.—Subparagraph (A) shall not apply unless the employee continues to perform service for the employer after the end of the approved maternity or paternity leave or offers to do so but is not reemployed by the employer."

(c) The amendment made by this section shall apply to plan years beginning more than one year after the date of the enactment of this Act.

REPORTS RELATING TO SPOUSAL BENEFITS UNDER CIVIL SERVICE RETIREMENT

SEC. 109. (a) DEFINITIONS.—(1) Section 8331 of title 5, United States Code, relating to definitions for purposes of civil service retirement, is amended by adding at the end thereof the following new paragraph:

"(23) 'court' means any court of any State or of the District of Columbia;

"(24) 'court order' means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment which orders that a portion of the annuity of an employee or Member, or survivor benefit based on the service of such employee or Member, be paid to that spouse by such employee or Member, the Director of the Office of Personnel Management, or the Government;

"(25) 'former spouse' means a former wife or husband of an individual who was married to such individual for not less than 10 years during periods of service by that individual which are creditable under section 8332 of this title;

"(26) 'pro rata share', in the case of any former spouse of any individual, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the individual during the creditable service of that individual is of (B) the total number of years of such creditable service; and

"(27) 'spousal agreement' means any agreement between an individual and that individual's spouse or former spouse which is in writing and acknowledged before a notary public."

(2) Such section 8331 of title 5, United States Code, is further amended—

(A) by striking out "and" at the end of paragraph (21), and

(B) by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon.

(b) ANNUITIES AND SURVIVOR ANNUITIES FOR FORMER SPOUSES.—(1) Subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, is amended by inserting after section 8341 the following new section:

"8341A. Former spouse annuities"

"(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 8345(j) of this title, a former spouse of an employee or Member retired under this subchapter is entitled to an annuity—

"(A) if married to the employee or Member throughout that employee's or Member's period of creditable service, equal to 50 percent of the annuity (determined without regard to the reduction under paragraph (5) of this subsection) to which such employee or Member is entitled; or

"(B) if not married to the employee or Member throughout the period of creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) The annuity of a former spouse under this subsection commences on the later of the day the employee or Member upon whose service the annuity is based becomes entitled to an annuity under this subchapter or the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

"(B) the date the annuity of the employee or Member terminates (except in the case of an annuity subject to paragraph (5)(B)).

"(4) No spousal agreement or court order under section 8345(j) of this title involving any employee or Member may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the employee or Member, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

"(5)(A) The annuity payable to any employee or Member shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that employee or Member. Such reduction shall be disregarded in calculating the survivors annuity for any spouse, former spouse, or other survivor under this subchapter, and in calculating any reduction in the annuity of the employee or Member to provide survivors benefits under subsection (b) or section 8341(b)(1) of this title.

"(B) If any disability annuitant whose annuity is reduced under subparagraph (A) becomes reinstated or reappointed in the civil service, the pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

"(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date the employee or Member would qualify on the basis of the employee's or Member's creditable service for an annuity under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the

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basis of the annuity for which the employee or Member would otherwise so qualify.

"(b)(1) Subject to any election under section 8339(j) of this title and unless otherwise expressly provided by any spousal agreement or court order under section 8345(j) of this title, if a former employee or Member who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

"(A) if married to the employee or Member throughout the creditable service of the employee or Member, equal to 55 percent of the full amount of the employee's or Member's annuity, as computed under section 8339 of this title, or

"(B) if not married to the employee or Member throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the Fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 8341(b)) with respect to any employee or Member may not exceed 55 percent of the full amount of the employee's or Member's annuity, as calculated under section 8339 of this title.

"(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 8341(b)) with respect to an employee or Member only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) After the death of an employee or Member, a court order under section 8345(j) of this title may not adjust the amount of the annuity of any former spouse under this subsection.

"(5)(A) For each full month after a former spouse of an employee or Member dies or remarries before attaining age 60, the annuity of the employee or Member, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the employee or Member may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 8341(b) of this title for any spouse of the employee or Member.

"(c)(1) In the case of any employee or Member providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such employee or Member may elect, or

"(B) a spousal agreement of court order under section 8345(j) of this title may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the employee or Member, if the employee or Member satisfactorily passes a physical examination as prescribed by the Office of Personnel Management.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any employee or Member, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such employee or Member under this section and section 8341 of this title, shall exceed 55 percent of the full amount of the employee's or Member's annuity, as computed under section 8339 of this title.

"(3)(A) In accordance with regulations which the Office shall prescribe, the employee or Member involved may provide for any annuity under this subsection—

"(i) by a reduction in the annuity or an allotment from the pay of the employee or Member,

"(ii) by a lump sum payment or installment payments to the Fund, or

"(iii) by any combination thereof.

"(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Office.

"(C) If a former spouse predeceases the employee or Member or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

"(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

"(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Office.

"(D) Under regulations prescribed by the Office, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the employee or Member dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this subchapter.

"(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the employee or Member dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

"(5) Section 8340 of this title shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Office.

"(d)(1) Section 8345(f) of this title shall not apply—

"(A) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 8345(j), or an election under section 8339(j), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such

spousal agreement, court order, or election; and

"(B) to any annuity payable under subsection (c).

"(2) A former spouse is not entitled to an annuity under this subchapter based upon the service of an employee or Member unless the former spouse elects to receive it instead of any other annuity to which the former spouse may be entitled under this subchapter or any retirement system for Government employees on the basis of a marriage to someone other than the employee or Member."

(2) Section 8332 of title 5, United States Code, relating to creditable service, is amended by adding at the end thereof the following new subsection:

"(n)(1) Service of an employee or Member shall be considered creditable service for purposes of applying provisions of this subchapter relating to former spouses if such service would be creditable—

"(A) under subsection (k) (1) or (2) but for the fact an election was not made under subsection (k)(1) or a special contribution was not made under subsection (k)(2), and

"(B) under section 8334(d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this subchapter a portion of the lump sum (or a spousal agreement or court order provided otherwise).

"(A) A former spouse shall not be considered as married to an employee or Member for periods assumed to be creditable service under section 8341(d)(2) of this title."

(3)(A) Section 8341(b) of title 5, United States Code, relating to survivor spouse annuities, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding the preceding paragraphs in this subsection and subsection (d), the amount of the annuity calculated under this subsection for a surviving spouse in any case in which there is also a surviving former spouse who qualifies for an annuity under section 8341A(b) with respect to the same employee or Member may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 8341A(b)(4)(B)."

(B) Section 8341(d) of title 5, United States Code, relating to survivor spouse annuities in the case of death in service, is amended by adding at the end thereof the following new sentence: "Any surviving former spouse shall be entitled to an annuity under section 8341A(b) as if the employee or Member died after being entitled to an annuity under this subchapter."

(4)(A) Section 8342(a) of title 5, United States Code, relating to lump-sum benefits, is amended by striking out "is entitled" and inserting in lieu thereof "(and any former spouse of such employee or Member, in accordance with subsection (j)) is entitled".

(B) Section 8342 of title 5, United States Code, is amended by adding at the end thereof the following:

"(j) Unless otherwise expressly provided by any spousal agreement or court order under section 8345(j) of this title, the amount of an employee's or Member's lump-sum credit payable to a former spouse shall be—

"(1) if the former spouse was married to the employee or Member throughout the period of creditable service, 50 percent of the lump-sum credit to which such employee or Member would be entitled in the absence of this subsection, or

"(2) if such former spouse was not married to the employee or Member throughout the period of his creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

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The lump-sum credit of the employee or Member shall be reduced by the amount of the lump-sum credit payable to the former spouse."

(5) Section 8344 of title 5, United States Code, relating to annuities and pay on reemployment, is amended by re-designating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) The Office shall prescribe regulations to provide for the application of this section in any case in which an annuitant has a former spouse entitled to an annuity under section 8341A of this title."

(6) The table of sections for chapter 83 of title 5, United States Code, is amended by inserting after the item relating to section 8341 the following new item:

"8341A. Former spouse annuities."

(c) JOINT EMPLOYEE-SPOUSE ELECTIONS.—(1) Section 8339(j) of title 5, United States Code, relating to election of survivor annuities, is amended to read as follows:

"(j)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement an employee or Member is married (or has a former spouse who has not remarried before attaining age 60), the employee or Member shall receive a reduced annuity and provide a survivor annuity under section 8341(b) for the employee's or Member's spouse, or a survivor annuity under section 8341A(b) for the former spouse, or a combination of such annuities, as the case may be.

"(B) At the time of retirement, a married employee or Member and the employee's or Member's spouse may jointly elect to waive a survivor annuity for that spouse under section 8341(b) (or under section 8341A(b) if the spouse later qualifies as a former spouse under section 8331(25)), or to reduce such a survivor annuity by designating a portion of the annuity of the employee or Member as the base for the survivor benefit. Any such election shall be in writing and shall be acknowledged before a notary public. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 8341A(b) may not exceed the portion of the employee's or Member's annuity designated under this subparagraph.

"(C) If an employee or Member has a former spouse, the employee or Member and such former spouse may jointly elect by spousal agreement under section 8345(j) to waive a survivor annuity under section 8341A(b) for that former spouse if the election is made (i) before the end of the 12-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement, whichever comes first.

"(D) The Office of Personnel Management may prescribe regulations under which an employee or Member may make an election under subparagraph (B) or (C) without the employee's or Member's spouse or former spouse if the employee or Member establishes to the satisfaction of the Office that the employee or Member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

"(2) The annuity of an employee or Member providing a survivor benefit under section 8341(b) (or section 8341A(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated

before any reduction under section 8341A(a)(5).

"(3) An annuity which is reduced under this subsection or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the employee or Member is dissolved, be recomputed and paid for each month during which the employee or Member is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been reduced, subject to any reduction required to provide a survivor benefit under section 8341A (b) or (c). Upon remarriage the retired employee or Member may irrevocably elect, by means of a signed writing received by the Office within one year after such marriage, to receive such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 8341A(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage.

"(4) The Office shall, on an annual basis—
"(A) inform each employee and Member of the rights of election under this subsection; and

(B) to the maximum extent practicable, inform spouses or former spouses of employees and Members of their rights under this subchapter."

(2) Section 8339(k)(1) of title 5, United States Code, relating to annuities for individuals having insurable interests, is amended by inserting after "an unmarried employee or Member" the following: "who does not have a former spouse for whose benefit a reduction is made in the employee's or Member's annuity and".

(3) Section 8341(b)(1) of title 5, United States Code, is amended by striking out "unless the employee or Member has notified the Office" and all that follows and inserting in lieu thereof the following: "unless an election has been made under section 8339(j)(1) or, in the case of remarriage, an election has not been made under section 8339(j)(3)".

(4) Section 8344(a) of title 5, United States Code, relating to annuities and pay on reemployment, is amended by striking out "unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office of Personnel Management in writing that he does not desire the survivor annuity to be increased" and inserting in lieu thereof "unless the annuitant and the annuitant's spouse jointly elect to the contrary at the time in a written election acknowledged before a notary public".

(d) SPOUSAL AGREEMENTS AND COURT ORDERS.—Section 8345(j) of title 5, United States Code, relating to court orders concerning the dissolution of marriage, is amended to read as follows:

"(j)(1)(A) In the case of any employee or Member who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

"(i) any right of the former spouse to any annuity under section 8341A(a) in connection with any retirement or disability annuity of the employee or Member; and the amount of any such annuity;

"(ii) any right of the former spouse to a survivor annuity under section 8341A (b) or (c), and the amount of any such annuity; and

"(iii) any right of the former spouse to any payment of a lump-sum credit under section 8342;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

"(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Office of Personnel Management, is inconsistent with the requirements of this subchapter.

"(2) Except with respect to obligations between employees or Members and former spouses, payments under this subchapter which would otherwise be made to an employee or Member based upon the employee's or Member's service shall be paid (in whole or in part) by the Office to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

"(3) Paragraphs (1) and (2) shall apply only to payments made under this subchapter for periods beginning after the date of receipt by the Office of written notice of such decree, order, or agreement, and such additional information and such documentation as the Office may require.

"(4) Any payment under this subsection to an individual bars recovery by any other individual.

"(5) The 10-year requirement of section 8331 (25), or any other provision of this subchapter, shall not be construed to affect the rights any spouse or individual formerly married to an employee or Member may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of an employee or Member under this subchapter."

(c) SURVIVOR BENEFITS IN THE CASE OF DIVORCES PRIOR TO EFFECTIVE DATE.—(1) Any current or former employee or Member in the Civil Service Retirement and Disability System who on the effective date of this section, has a former spouse shall receive a reduced annuity and provide a survivor annuity for such former spouse under section 8341A(b) of title 5, United States Code, if—

(A) the employee or Member so elects by means of a spousal agreement, or

(B) a court order so provides.

(2)(A) If the employee or Member has not retired under such system on or before the effective date of this section, an election under paragraph (1)(A) may be made, or a court order under paragraph (1)(B) may be issued, at any time before retirement.

(B) If the employee or Member has retired under such system on or before the effective date of this section, an election under paragraph (1)(A) may be made, or a court order under paragraph (1)(B) may be issued, within such period after the effective date as the Office of Personnel Management may prescribe.

(C) In any case in which an employee or Member is married and has been married for more than one year, an election under paragraph (1)(A) may only be made with the written concurrence of the spouse of the employee or Member.

(D) For purposes of applying subchapter III of chapter 83 of title 5, United States Code, any such election or court order shall be treated the same as if it were a spousal agreement or court order under section 8345(j) of title 5, United States Code.

(3)(A) An election under paragraph (1)(A) may provide for a survivor benefit based on all or any portion of that part of the annuity of the employee or Member which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the employee or Member.

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The employer or Member and the employee's or Member's spouse may make an election under section 8339(j)(1)(B) of title 5, United States Code, prior to the time of retirement for the purpose of allowing survivor benefits to be provided under this subsection.

(B) A court order under paragraph (1)(B) may provide for an annuity for a former spouse which does not exceed that former spouse's pro rata share of 55 per centum of the full amount of the annuity of employee or Member.

(4) The amount of the reduction in the employee's or Member's annuity shall be determined in accordance with section 8339(b)(2) of title 5, United States Code. Such reduction shall be effective as of—

(A) the commencing date of the employee's or Member's annuity, in the case of an election under paragraph (2)(A), or

(B) the effective date of this section, in the case of an election under paragraph (2)(B).

(5) In the case of an employee or Member who died before the effective date of this section after becoming entitled to an annuity and who—

(A) at the time the employee or Member became entitled to an annuity was married and did not elect not to provide for a survivor annuity for any surviving spouse under section 8339(j)(1) of title 5, United States Code;

(B) subsequently was divorced from the spouse to whom the employee or Member was married at the time of retirement;

(C) died and was not married at the time of death (or, if then married, was not married to an individual entitled to an annuity under section 8341(b) of title 5, United States Code),

the individual to whom the employee or Member was married at the time the employee or Member retired shall be entitled to an annuity under section 8341 of title 5, United States Code, as if married to the Member at the time of death if the individual is qualified as a former spouse.

(6) For purposes of this subsection, the terms "former spouse", "employee", "Member", "court order", and "spousal agreement" have the same meanings as when used in subchapter III of chapter 83 of title 5, United States Code.

(7) **EFFECTIVE DATE.**—(1) The provisions of this section shall take effect beginning on the one hundred and twentieth day after the date of the enactment of this Act.

(2) The preceding subsections of this section regarding the rights of former spouses to any annuity under section 8341A(a) of title 5, United States Code, shall apply in the case of any individual who after the effective date of this section becomes a former spouse of a current or former employee or member in the Civil Service Retirement and Disability System.

(3) Except to the extent provided in subsection (e), the provisions of this section regarding the rights of former spouses to receive survivor annuities under subchapter III of chapter 83 of such title 5 shall apply to the case of any individual who after the effective date of this section becomes a former spouse of a current or former employee or Member in the Civil Service Retirement and Disability System.

DISPLACED HOMEMAKERS ESTABLISHED AS A TARGETED GROUP FOR PURPOSES OF COMPUTING THE TAX CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES

SEC. 110. (a) Paragraph (1) of section 51(d) of the Internal Revenue Code of 1954 (relating to members of targeted groups) is amended by adding at the end thereof the following new subparagraph:

"(K) a displaced homemaker."

(b) Section 51(d) of such Code (relating to members of targeted groups) is amended by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (14), (15), (16), and (17), respectively, and by adding after paragraph (12) the following new paragraph:

"(13) **DISPLACED HOMEMAKER.**—The term 'displaced homemaker' means an individual who—

"(A) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members,

"(B)(i) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (ii) is receiving public assistance on account of dependent children in the home, and

"(C) is a member of an economically disadvantaged family and is experiencing difficulty in obtaining or upgrading employment."

(c)(1) Paragraph (1) of section 51(d) of such Code is amended—

(A) by striking out "or" at the end of subparagraph (I), and

(B) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof ", or".

(2) Subparagraph (A)(ii) of paragraph 12 of such section 51(d) is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

(d) The amendments made by subsections (a), (b), and (c) shall apply to amounts paid or incurred after the date of enactment of this Act to individuals who have begun to work for the employer after such date.

ZERO BRACKET AMOUNT FOR HEADS OF HOUSEHOLDS INCREASED TO AMOUNT FOR JOINT RETURNS, ETC.

SEC. 111. (a) Paragraph (3) of subsection (b) of section 1 of the Internal Revenue Code of 1954 (relating to imposition of tax on income of heads of households after 1983) is amended to read as follows:

"(3) **FOR TAXABLE YEARS BEGINNING AFTER 1983.**—

If taxable income is: The tax is:

Over \$3,400..... No tax.

Over \$3,400 but not over \$5,500..... 11% of the excess over \$3,400.

Over \$5,500 but not over \$7,600..... \$231, plus 12% of the excess over \$5,500.

Over \$7,600 but not over \$9,800..... \$483, plus 14% of the excess over \$7,600.

Over \$9,800 but not over \$12,900..... \$791, plus 17% of the excess over \$9,800.

Over \$12,900 but not over \$16,100..... \$1,318, plus 18% of the excess over \$12,900.

Over \$16,100 but not over \$19,300..... \$1,894, plus 20% of the excess over \$16,100.

Over \$19,300 but not over \$24,600..... \$2,534, plus 24% of the excess over \$19,300.

Over \$24,600 but not over \$29,900..... \$3,806, plus 28% of the excess over \$24,600.

Over \$29,900 but not over \$35,200..... \$5,290, plus 32% of the excess over \$29,900.

Over \$35,200 but not over \$45,800..... \$6,986, plus 35% of the excess over \$35,200.

Over \$45,800 but not over \$61,700..... \$10,696, plus 42% of the excess over \$45,800.

If taxable income is:

Over \$61,700 but not over \$82,900.....

Over \$82,900 but not over \$109,400.....

Over \$109,400.....

The tax is:

\$17,374, plus 45% of the excess over \$61,700.

\$26,914, plus 48% of the excess over \$82,900.

\$39,634, plus 50% of the excess over \$109,400.

(b)(1) Subsection (e) of section 104 of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(e) **EFFECTIVE DATES.**—

"(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

"(2) **SUBSECTIONS (b), (c), and (d).**—The amendments made by subsections (b), (c), and (d) shall apply to taxable years beginning after December 31, 1983."

(2)(A) Clause (1) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 (relating to persons required to make returns of income) is amended by inserting "is not a head of a household (as defined in section 2(b)), after "section 2(a))."

(B) Clause (1) of such section is amended by inserting "or who is a head of a household (as so defined)" after "who is a surviving spouse (as so defined)".

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

TITLE II—DEPENDENT CARE PROGRAM

INCREASE IN THE TAX CREDIT FOR EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT

SEC. 201. (a) Paragraph (2) of subsection (a) of section 44A of the Internal Revenue Code of 1954 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(2) **APPLICABLE PERCENTAGE DEFINED.**—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below 20 percent) by 1 percentage point for each full \$1,000 by which the taxpayer's adjusted gross income for the taxable year exceeds \$10,000."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE INCLUDED WITHIN THE DEFINITION OF TAX-EXEMPT ORGANIZATIONS

SEC. 202. (a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) **TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING DEPENDENT CARE.**—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of nonresidential dependent care of individuals if—

"(1) substantially all of the dependent care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public."

(b)(1) Subsection (k) of section 170 of such Code is amended by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively, and by inserting

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connection with death, disability, medical conditions, attainment of specified age, retirement from employment, economic loss, theft, or other events customarily dealt with in insurance policies and contracts (including annuity or pension contracts) relating to life, accident and casualty, theft, retirement, liability, health, disability, or economic loss.

(4) "Insured" means any person who is insured under, or is or may be an applicant for insurance under, a contract of insurance issued or to be issued by the insurer.

(5) "insurer" means any person (A) who provides insurance to others or otherwise engages in the business of insurance and (B) whose activities (i) affect commerce, (ii) utilize facilities of the United States Postal Service, (iii) utilize any facilities used in commerce by any person, or (iv) result in a discriminatory action carried on under color of any law, statute, ordinance, or regulation, or required, permitted, or sanctioned, or supported with funds provided, by the United States, and State or political subdivision, or any agency or officer thereof; and includes such person's agent.

(6) "activities affect commerce" means any activity which directly or indirectly relates to, impinges upon, or involves any activity in commerce, and includes any governmental activity.

(7) "person" includes one or more individuals, governments, and agencies of the United States or of any State or political subdivision thereof, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint ventures, joint stock companies, societies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

(8) "sex" means the gender of the insured and includes pregnancy, childbirth, or related medical conditions of a female insured, except that nothing in this title shall be deemed to amend section 701(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(k)), and

(9) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

UNLAWFUL DISCRIMINATORY ACTIONS

SEC. 304. (a) It shall be unlawful discriminatory action for any insurer, because of the race, color, religion, sex, or national origin of any person or any persons, to do any of the following with respect to any person who after the effective date of this title applies or may apply for a contract of insurance or is an insured under a contract of insurance made after the effective date of this title—

(1) to refuse to make, or to refuse to negotiate, or otherwise make unavailable or deny, or delay receiving and processing an application for, a contract of insurance of the type ordinarily made by such insurer; or

(2) to treat such applicant or insured differently than the insurer treats or would treat any other applicant or insured with respect to the terms, conditions, rates, benefits, or requirements of such insurance contract.

(b) It shall be an unlawful discriminatory action for any insurer—

(1) to utilize any statistical table (whether of mortality, life expectancy, morbidity, disability, disability termination, or losses) or any other statistical compilation as a basis for any action which is contrary to this section;

(2) to discriminate in any manner against any person because such person has opposed any practice made unlawful by this title or because such person has made a charge, testified, assisted, or participated in

any manner in an investigation, proceeding, hearing, or litigation under this title; or

(3) to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, relating to insurance coverage that such insurer provides or will provide, indicating any preference, limitation, specification, or discrimination based on the race, color, religion, sex, or national origin of any person or group of persons, or an intention to make any such preference, limitation, specification, or discrimination.

(c) With respect to all contracts of insurance existing on the date this title becomes effective—

(1) it shall be an unlawful discriminatory action for any insurer after the effective date of this title—

(A) to charge or collect premium payments or contributions which become due after the effective date of this title; or

(B) to determine the amount of or to pay to any insured or other beneficiary under an insurance, annuity, or pension contract any periodic or lump-sum payment after the effective date of this title;

if such charge, collection, determination, or payment, is based, directly or indirectly, either on race, color, religion, sex, or national origin of any person or group of persons, or on any statistical table whose use would, if applied to contracts made after the effective date of this title, violate any provision of this section; and

(2) the insurer may modify the premium and contribution rates and may increase but not decrease the periodic and lump-sum payments under such existing contracts insofar as they are due after the effective date of this title, if clearly necessary to comply with the nondiscrimination requirements of this title (and if the State agency having jurisdiction to regulate the business of insurance concurs that the modification requested by the insurer is clearly necessary to comply with such requirements and authorizes such modification), but such insurer need not refund any portion of the premiums and contributions which were payable to the insurer prior to the effective date of this title nor pay any additional amounts for the benefits which were payable by the insurer prior to the effective date of this title.

(d) Nothing in this title shall be deemed to prevent an insurer who regularly provides insurance coverage solely to persons of a single religious affiliation from continuing to provide insurance solely to persons of that religious affiliation.

STATE OR LOCAL ENFORCEMENT PRIOR TO JUDICIAL ENFORCEMENT UNDER THIS TITLE

SEC. 305. (a) If an alleged discriminatory action occurs in a State, or political subdivision thereof, which has a State or local law prohibiting such discriminatory action and establishing or authorizing a State or local authority to grant or seek relief from such discriminatory action or to institute criminal proceedings with respect to such action upon receiving written notice of such action within one hundred and eighty days after the alleged discriminatory action occurs, the provisions of this section shall apply.

(b) It is the purpose of this title to accord to State and local authorities the primary opportunity to enforce the State or local laws prohibiting such discriminatory action before an aggrieved person may invoke the judicial remedy provided under section 306 of this title. Therefore, no suit shall be filed under section 306 of this title before the expiration of sixty days after the State or local authority has received the notice specified in subsection (a) of this section, unless any proceeding begun by the State or local

authority after such notice has been earlier terminated (except that such sixty-day periods shall be one hundred and twenty days during the first year after the effective date of such State or local law). The notice of the alleged discriminatory action to commence such State or local proceedings shall be filed within the time prescribed by such State or local law, provided such prescribed time is not less than one hundred and eighty days after the alleged discriminatory action occurred. If any State or local authority imposes any requirement for the commencement of such proceedings other than a requirement that a written and signed statement of the facts upon which the charge of the alleged discriminatory action is based be filed within one hundred and eighty days after the alleged discriminatory action occurred, the proceeding shall be deemed to have been commenced for the purposes of this section at the time such statement is filed with the appropriate State or local authority. Depositing such statement in the United States mail by certified or registered mail addressed to the State or local agency shall be equivalent to such filing. Where the alleged discriminatory action is continuing in character, the one hundred and eighty days shall be computed from the last day on which such continuing discriminatory action occurred.

CIVIL ACTION BY OR ON BEHALF OF AGGRIEVED PERSONS

SEC. 306. If the State or political subdivision thereof in which the alleged discriminatory action occurred does not have a State or local law which complies with subsection 305(a) of this title, or if the State or local authority has failed within sixty days after receiving the notice prescribed in section 305 of this title to either (i) institute and diligently prosecute a proceeding pursuant to such section, or (ii) enter into a conciliation agreement to which the aggrieved person is a party, a civil action against the insurer may be brought by or on behalf of such person. Such civil action may be instituted in any State court having jurisdiction under State law or in a United States district court having jurisdiction under section 308 of this title. No suit under this section may be filed after the expiration of one hundred and eighty days following the alleged discriminatory action, except that in a case where the aggrieved person has instituted proceedings with a State or local authority pursuant to section 305 of this title and such authority either has notified the aggrieved person that the proceedings under the State or local law have been terminated, or has failed to comply with causes (i) or (ii) of this section within sixty days after receiving the notice prescribed in section 305 of this title, the suit under this section may be filed not later than ninety days thereafter, or one hundred and eighty days after the occurrence of the alleged discriminatory action, whichever is later, where the alleged discriminatory action is continuing in character, the one hundred and eighty days shall be computed from the last day on which such discriminatory action occurred. Upon the complainant's application and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon request of the State or local authority or any party to the suit, the court may stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in section 305 of this title.

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CIVIL ACTION BY THE ATTORNEY GENERAL INVOLVING ISSUES OF GENERAL PUBLIC IMPORTANCE

SEC. 307. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title, and such denial raises an issue of general public importance, the Attorney General may bring a civil action in any United States district court having jurisdiction under section 308 of this title, by filing with it a complaint setting forth the facts and requesting such relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as the Attorney General considers necessary to insure the full enjoyment of the rights granted by this title.

JURISDICTION

SEC. 308. Any civil action under this title instituted in a United States district court shall be brought, without regard to the amount in controversy, in the United States district court of any judicial district in the State in which (1) the alleged discriminatory action occurred, (2) the insurer's principal office is located, (3) the insurer maintains and administers records relevant to the alleged discriminatory action, (4) the insurer resides or is located, (5) the insurer is incorporated or has a designated agent for service of process, or (6) the insurer transacts business. The case shall be heard at the earliest practicable time and expedited in every way. If no judge is promptly available to hear and decide the case, the chief judge or acting chief judge of the district shall so certify to the chief judge of the circuit who shall promptly designate a district or circuit judge of the circuit to hear and determine the case.

JUDICIAL RELIEF

SEC. 309. (a) If the court determines that the insurer, whether public or private, has committed a discriminatory action, the court may—

(1) enjoin the respondent from committing any discriminatory action in the future;

(2) order the respondent to amend the insurance contract to conform with the requirements of this title;

(3) require the respondent to reimburse the aggrieved person for all actual damages sustained by such person, either in an individual capacity or as a member of a class, including reimbursement for excess rates paid or inadequate benefits received as a result of the discriminatory action;

(4) require the respondent to pay punitive damages, in addition to the actual damages under paragraph (3) of this subsection, of not more than \$25,000 for each individual plaintiff and not more than \$800,000 in the case of a class action;

(5) allow the person aggrieved such reasonable attorney fees as part of the costs assessed against the respondent, as the court in its discretion deems proper;

(6) order such other equitable relief, including temporary or preliminary relief pending final disposition of the case, as the court may deem appropriate; and

(7) utilize the sanction of contempt to enforce its orders under this section.

(b) In determining the amount of punitive damages under subsection (a)(4) of this section, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the respondent's failure to comply with

requirements of this title, the respondent's resources, the number of persons affected, the extent to which the respondent was enriched through its discriminatory action, and the extent to which the respondent's failure to comply was intentional.

INAPPLICABILITY

SEC. 310. Nothing in this title shall be deemed to—

(1) modify any provision of the Social Security Act;

(2) modify any provision of any law or Executive order prohibiting discrimination in employment on the basis of an individual's race, color, religion, sex, or national origin; or of any rule, regulation, order, or agreement under such law or Executive order; or

(3) exempt or relieve any person from any liability, duty, penalty, or punishment under any present or future law of any State or political subdivision thereof, other than any such law which purports to require or permit the doing of any act which would be a discriminatory action under this title.

EFFECTIVE DATE OF TITLE

SEC. 311. This title shall become effective on the ninetieth day after the date of the enactment of this Act.

TITLE IV—REGULATORY REFORM AND SEX NEUTRALITY REVISION OF REGULATIONS, ETC., AND LEGISLATIVE RECOMMENDATIONS

SEC. 401. (a) The head of each agency (within the meaning of section 552(e) of title 5, United States Code) shall—

(1) conduct an ongoing review of the rules, regulations, guidelines, programs, and policies of the agency to identify all such rules, regulations, guidelines, programs, and policies which result in different treatment based on sex; and

(2) submit annually a report to the Congress on such review, including a detailed description of the progress of the agency in complying with the requirements of subsection (b).

(b) The head of each agency (as defined in subsection (a)) shall develop and implement proposals to make, to the extent practicable, all rules, regulations, guidelines, programs, and policies of the agency neutral as to sex.

(c) The head of each agency (as defined in subsection (a)) shall develop and transmit to the Congress proposals to alter any laws implemented, administered, or enforced by the agency to ensure, to the extent practicable, that their implementation, administration, or enforcement does not result in discrimination on the basis of sex.

RULE OF STATUTORY CONSTRUCTION RELATING TO GENDER

SEC. 402. (a) Section 1 of title 1, United States Code, is amended—

(1) in the heading, by striking out "gender," and inserting in lieu thereof "tense,"; and

(2) by striking out the following: "words importing the masculine gender include the feminine as well";

(b)(1) Chapter 1 of title 1, United States Code, is further amended by inserting after section 1 the following new section:

"§ 1a. Words denoting gender

"Unless otherwise specifically provided in an Act of Congress with respect to such Act or any provision thereof, all words of such Act or provision importing one gender include and apply to the other gender as well."

(2) The table of sections for chapter 1 of title 1, United States Code, is amended by striking out the item relating to section 1 and inserting in lieu thereof the following new item:

"1. Words denoting number, tense, and forth.

"1a. Words denoting gender."

TITLE V—CHILD SUPPORT ENFORCEMENT

PART A—PROGRAM IMPROVEMENTS

PURPOSE OF THE PROGRAM

SEC. 501. (a) Section 451 of the Social Security Act is amended by striking out "the purpose of enforcing" and inserting in lieu thereof the following:

"(a) The purpose of the program authorized by this part is to assure compliance with obligations to pay child support to each child in the United States living with one parent.

"(b) In order to achieve the purpose forth in subsection (a), by enforcing"

(b) The section heading of section 451 such Act is amended to read as follows:

"PURPOSE OF PROGRAM; APPROPRIATIONS"

COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

SEC. 502. (a) Section 454(a) of the Social Security Act is amended—

(1) by inserting "or which such State has agreed to collect under section 454(6)," after "402(a)(26)," and

(2) by inserting before the period at the end thereof the following: "In the case of past-due support assigned to such State pursuant to section 402(a)(26), or, in the case of past-due support which such State has agreed to collect under section 454(6), shall pay such amount to the State agency for distribution, after deduction of any fees imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed."

(b) Section 6402(c) of the Internal Revenue Code of 1954 is amended by inserting "or which has agreed to collect such support under section 454(6) of such Act" after "the State to which such support has been assigned."

(c) The amendments made by this section shall become effective 90 days after the date of the enactment of this Act.

CHILD SUPPORT CLEARINGHOUSE

SEC. 503. (a) Section 454(10) of the Social Security Act is amended to read as follows:

"(10) provide that the State will maintain a child support clearinghouse or comparable procedure—

"(A) through which all payments for the support and maintenance of a child, and payments for the support and maintenance of a child and the parent with whom the child is living, which are owed by absent parents residing or employed in such State pursuant to any support order which is issued, modified, or enforced after December 31, 1983, will be recorded;

"(B) into which any such support payments shall be paid, recorded, and forwarded—

"(i) in the case of children residing in such State, to such children or (where applicable) for distribution under paragraph (5), or

"(ii) in the case of children residing in another State, to the child support clearinghouse in such other State,

with appropriate arrangements with other States to avoid duplication of collection where an individual resides in one State and is employed in another State;

"(C) which will maintain a full record of collections and disbursements made; and

"(D) which will include a system for reporting such support obligations owed, collected, and disbursed, and for notifying appropriate courts and the agency established under paragraph (3) when payments are not made in a timely manner or the

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rect amount of such payments not made, for the purpose of taking enforcement actions."

(b) The amendment made by this section shall become effective on January 1, 1985.

STRENGTHENING OF STATE CHILD SUPPORT ENFORCEMENT PROCEDURES

Sec. 504. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "and"; and

(3) by adding at the end thereof the following new paragraphs:

"(20) provide that the State shall seek medical support for children for whom it is seeking financial support when such medical support from an absent parent would be available at a reasonable cost through employment related health care or health insurance;

"(21) provide for mandatory withholding and payment of past-due support (as defined in section 464(c)) from wages when such support has been past-due for two months, as determined through the child support clearinghouse established pursuant to paragraph (10);

"(22) provide a procedure for imposing liens against property and estates for amounts of past-due support (as defined in section 464(c)) owed by an absent parent residing in such State;

"(23) in the case of a State which imposes an income tax, provide that past-due support (as defined in section 464(c)) owed by an absent parent residing or employed in such State shall be withheld and collected from any refund of tax payments which would otherwise be payable to such absent parent;

"(24) provide that quasi-judicial or administrative procedures be available to aid in the establishment, modification, and collection of support obligations and in the establishment of paternity; and

"(25) provide for at least three of the following:

"(A) voluntary wage assignment for payment of support obligations.

"(B) the use of highly accurate scientific testing (as determined by the Secretary) to determine paternity.

"(C) the imposition of security, a bond, or another type of guarantee to secure support obligations of absent parents who have a pattern of past-due support.

"(D) a procedure whereby a proceeding to establish paternity may be carried out without the participation of the alleged father if such alleged father refuses to cooperate in establishing paternity; or

"(E) use of an objective standard to guide in the establishment and modification of support obligations by measuring the amount of support needed and the ability of an absent parent to pay such support, such that comparable amounts of support are awarded in similar situations."

(b) Of the eight requirements consisting of paragraphs (20) through (24), and any three of the subparagraphs (A) through (E) of paragraph (25), of section 454 of the Social Security Act—

(1) five of such requirements must be met by each State prior to January 1, 1985; and

(2) an additional three of such requirements must be met by each State prior to January 1, 1985.

In order for such State's plan to be in compliance with section 454 of such Act.

EXCEPTIONS TO DISCHARGE IN BANKRUPTCY

Sec. 505. Section 523(a)(5) of title 11, United States Code, is amended by striking

out "in connection with a separation agreement, divorce decree, or property settlement agreement."

PART B—FEDERAL EMPLOYEE PROVISIONS ALLOTMENT OF FEDERAL PAY FOR CHILD AND SPOUSAL SUPPORT

Sec. 511. (a)(1) Subchapter III of chapter 55 of title 5, United States Code, is amended by inserting after section 5525 the following new section:

"5525a. Allotments of pay for child and spousal support

"(a) In any case in which child support payments or child and spousal support payments are owed by an employee under a support order meeting the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act, allotments from the pay of the employee shall be made if the court issuing the order provides notice of such order in accordance with the applicable regulations prescribed under subsection (d).

"(b) The amount of an allotment under this section shall be the amount necessary to comply with the court order, except that the amount of the allotment, together with any other amounts withheld for support from the pay of the employee, shall not exceed the limits prescribed in section 303(b) of the Consumer Credit Protection Act.

"(c) An allotment under this section shall be adjusted or discontinued upon notice from the court.

"(d) The regulations prescribed under section 5527 of this title to carry out the preceding provisions of this section—

"(1) shall designate to whom any notice under this section is to be given;

"(2) shall prescribe the form and content of any such notice; and

"(3) shall set forth any other rules necessary to implement this section.

"(e) For purposes of this section, the terms 'child support payments', 'child and spousal support payments', and 'support' are used as those terms are used in section 465 of the Social Security Act."

(2) The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5525 the following new item:

"5525a. Allotments of pay for child and spousal support."

(b) The amendments made by subsection (a) shall apply with respect to court orders first issued after the date of the enactment of this Act.

WOMEN'S ECONOMIC EQUITY ACT

TITLE I—TAX AND RETIREMENT MATTERS

Displaced homemakers

Background

Displaced homemakers are persons who have spent years in the home caring for family members, and subsequently lost their source of support through separation, divorce, death or disability of the spouse. There are an estimated 3.3 million displaced homemakers nationwide.

The displaced homemaker finds the adjustment process to their new lives overwhelming. Few have marketable skills, and if they have worked, it was usually in the early years of their marriages. They need financial stability, training and jobs in order to make the adjustment.

The transition from homemaker to wage earner is difficult to make, but imperative to the survival of most women who find themselves suddenly divorced, separated or widowed. Employers have been unwilling to credit displaced homemakers with previous work experience or transfer volunteer skills into employment qualifications.

Displaced homemakers who can find jobs frequently settle for low-skilled, low paying

jobs which require little or no training, and provide little or no opportunities for advancement.

Proposal

To amend the Internal Revenue Code to add displaced homemakers to the list of eligible hirees under the targeted jobs tax credit program. That program is designed to address precisely the type of workforce entry problems experienced by displaced homemakers. It permits employers to take a special tax credit when they hire an individual from a targeted group of hard-to-employ persons. Economically disadvantaged youths, SSI recipients, vocational rehabilitation referrals, and economically disadvantaged Vietnam-era veterans are presently eligible. And by any criteria, displaced homemakers are a proper addition to this group.

This tax credit mechanism provides an incentive for employers to seek out individuals from these qualifying groups for employment. Frequently, this incentive results in the employment of trainable persons who lack the credentials and/or job experience to land the job without the tax incentive.

This incentive for private industry encourages employment of hard to place individuals in the private sector, where they are offered opportunities for training and upward mobility.

Adding displaced homemakers to the list of eligible hirees provides an incentive for employers to give extra consideration to this targeted group.

Individual retirement accounts

Background

Over the past ten years we have progressively moved toward greater reliance on individual rather than institutional retirement plans. Tax deferral on income set aside for retirement is the vehicle that brought about this shift, and the IRA is now a staple in the retirement planning of millions of Americans.

But eligibility to participate in IRA's is pegged to earnings, a fact that works to the severe disadvantage of women who choose to remain in the home and raise a family, and therefore have low or intermittent earning histories. This segment of the populace (as well as those women who work but simply find themselves tracked in lower paying jobs) are cut out of the mainstream of the individual retirement movement. And there is no doubt that under current law, the benefits of IRA participation have been skewed heavily toward working males, and away from women who work either in the home or in lower paying jobs.

The Economic Equity Act addresses this problem in two ways:

1. Under present law alimony and spouse support does not qualify as income for the purpose of IRA eligibility determination. This short-sighted policy ignores the fact that alimony is the sole or primary income source for millions of women who lack sufficient earnings histories to qualify for Social Security, and have no accrued pension or no pension survivorship rights. There is no rational policy for distinguishing between these spousal support payments and other forms of direct or indirect income. The Economic Equity Act recognizes that reality by providing that alimony and support payments be treated as compensation income for the purpose of determining IRA eligibility.

2. The Act also addresses the pervasive problem of the spouse with lower intermittent earnings history by permitting each spouse to establish an individual retirement account with eligibility limits pegged to the income of the higher earning spouse. This

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simple mechanism would remove the unintended but very real differential impact of present IRA legislation on women. In addition, it would quickly and completely negate the impact of the 59¢-\$1.00 average earning differential on individual retirement plans.

*Private pension reform**Background*

Older women are the fastest growing poverty group in America. And our present retirement income system does little to alleviate that situation.

Under private pension systems, women are penalized if they leave the labor force to rear children, and/or if they divorce. It is little wonder that 81 percent of women over 65 not living with relatives live below the poverty line.

The 1974 Employees Retirement Income Security Act (ERISA) was passed to insure that workers who participate in pension programs receive the benefits for which they are eligible. While that law contains significant improvements for pension recipients by providing minimum standards for participation, vesting, funding, and administration of pension plans, ERISA fails to address the differing needs of women.

Because employed women tend to be young, work part-time or part year, are concentrated in sales and service jobs, and interrupt their service for family obligations, most working women receive no pension coverage. The majority of employed women are not covered because they are concentrated in occupations that offer no pension plans at all. In fact, only 21 percent of women workers are covered by pension plans, compared to 49 percent of men. And just 13 percent of all working women actually receive their pension benefits.

The Economic Equity Act attempts to remedy some of these problems.

Proposal

1. *Women as Workers.* Women in the 20-24 age bracket have the highest labor force participation rate among women—68.3 percent by 1985. Yet existing pension law fails to take into account the fact that women enter the labor force at an earlier age than men. This section of the bill would more closely equate the impact on the male and female segments of the labor force by lowering the age of participation in pension plans from 25 to 21. This would have a dramatic impact on women.

Any employer who wishes to get the tax benefits which go with having a company pension plan must meet the requirements of the Employee Retirement Income Security Act of 1974, as amended, and the relevant portions of the Internal Revenue Code. Existing law requires employers with qualified plans to allow an employee to participate in the pension plan on the latter of two dates: the day the employee reaches age 25 or the day the employee completes one year of service. An employee who begins work at age 18, for example, must work a minimum of seven years with the same employer before acquiring the right of pension participation. Conversely, one who enters the labor force at 24 must work only one year for the same right.

2. *Women as Mothers.* Many women take extended "breaks-in-service" from a particular job in order to tend to family responsibilities. Even if they return to the same job, they lose pension credits which they had accumulated before leaving. This portion of the bill would modify break-in-service rules to give 20 hours per week credit for up to one year of employer-approved maternity or paternity leave, provided the worker return to her/his job.

3. *Women as Wives and Widows.* Because of inequities that employed women face in

the pension system or in careers as homemakers, most women are largely dependent on their spouse's pension to ensure adequate retirement income. But survivors' annuities pay only if a set of conditions are met, taking into account marital status, retirement age, and age of death. Because all of the specific conditions must be met, only 5 to 10 percent of surviving spouses actually receive the benefits, according to the National Women's Political Caucus.

ERISA requires private pension plans to offer optional joint and survivor annuities. There is no requirement, however, that the spouse be consulted or even informed of the wage-earner's decision to terminate the survivor benefit. Because benefits under the joint plan are lower in order to compensate for the survivor annuity, many workers opt for the single life annuity and thus fail to provide for the spouse.

The Economic Equity Act requires that the joint and survivor option will be automatic unless both spouses agree in writing not to elect the joint and survivor option.

The Equity Act also requires that a survivor's benefit be paid to the participant's spouse—if the participant is vested and dies before retirement. This annuity shall not be less than the amount the survivor would have received if the vested participant had died after retirement. Currently, if a participant dies before he retires, the survivor benefit can be withdrawn. Many women suffer tremendously because of this loophole.

A similar provision relates to survivor benefits in a non-accidental death. The law presently states that if a participant in a pension plan dies from a non-accidental death within two years of his joint and survivor election, those survivor benefits can be denied. The purpose is to prevent individuals from electing survivorship benefits after discovering the presence of a terminal illness.

But while this rule may have caught a few such cases, its principle impact has been to prevent women from receiving the survivorship benefits they have earned through legitimate election. After all, it is not unusual for individuals stricken with terminal diseases, like cancer, to perish less than 24 months from the date on which the disease was diagnosed. With heart disease, the problem is even more pronounced. Most heart attacks are sudden, and unexpected. Heart attacks have a disproportionate impact on men, and the right to disregard has had an enormous impact on women. A legitimate joint and survivor election, occurring less than two years before the fatal attack, can be disregarded. The Economic Equity Act proceeds on the belief that this provision has done far more harm than good, and that if the possibility of survivorship election after discovery of a terminal illness is a problem significant enough to address, it should be addressed with a scalpel rather than a hatchet approach. The Act eliminates ERISA language which is inconsistent with the universal protection of survivorship.

4. *Women as Former Spouses.* This provision under private pensions recognizes marriage as an economic partnership, and establishes pensions as a legitimate property right. A similar protection was granted to spouses and former spouses under the 1965 amendment to the Social Security Act.

*Public pension reform**Background*

The plight of the so-called displaced homemaker is becoming well-recognized in a society where nearly one of every two marriages ends in a divorce. These divorced or widowed women who have devoted many

years to maintaining the home and family often suffer serious consequences when they attempt to gain outside employment, or receive their rightful pension or retirement benefits.

Contrary to the popular myth of the merry divorcee, only a few are wealthy. Alimony is received by just 4 percent of divorced women. Furthermore, statistics indicate that while 89 percent of single-parent families are headed by mothers, three-quarters of these women received no child support from fathers. For even this minority of women, alimony and child support are no substitute for a vested pension interest. Both cease with the death of the employed or retired spouse.

Congress began to address this issue by amending the Social Security Act in 1972, providing pension benefits to divorced wives married 10 years or more. However, even these basic protections are not afforded a significant number of women married to Civil Service or military employees or employees enrolled in many private pension plans. For military and civil service employees, their spouses do not automatically receive Social Security. Thus, they discover once they are divorced, the wives lose all claim to retirement pay and survivor's benefits, as well as any right to health insurance benefits.

A recent victim of this policy as it pertains to the U.S. government's Foreign Service was Jane Duba, who served beside Adolph Duba for 30 years until their divorce in 1976. When Mr. Duba was killed while serving as Ambassador to Afghanistan in 1978, she was refused any part of his survivor's benefits. Instead, the money went to the second Mrs. Duba, his wife of only three years. This, despite the fact that the first Mrs. Duba, like most Foreign Service homemakers was a vital resource, enriching the overseas communities with thousands of hours of donated service as a foreign emissary's wife.

Cultural, legal, and linguistic barriers, as well as the constant international mobility of her husband's job prevent the Foreign Service wife from seeking employment outside the home. Yet divorced Foreign Service wives, after long years of unpaid government service abroad, have no employment record, no modern skills, no social security, no shared annuity, no survivor benefits, and often exorbitantly expensive medical insurance.

Fortunately, this situation was remedied with the passage of an amendment to the Foreign Service Act in September 1980 and comprehensive reform of the pension provisions covering military and foreign service employees was adopted in 1982. The Economic Equity Act would complete those reforms by extending them to civil service retirees as well.

Proposal

Included in the Economic Equity package is legislation similar to that in the Foreign Service Act, which will help address the inequities faced by divorced and widowed spouses of Civil Service employees.

The provision would:

Entitle women who were married to civil service employees for at least 10 years the right to a pro rata share of the benefits earned during marriage. This provision is subject to court review and modification, depending on the divorce settlement. However, the legislation demands that courts must view pensions as a valid property right. Many have not done so in the past. As a result, many of these women find that the retiree walks away from the divorce with a full retirement plan and health insurance, while the spouse walks away with nothing.

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Furthermore, even in cases where the courts have awarded partial retirement benefits, no court has considered the survivor's benefit as property to which the former spouse is entitled.

Mandate survivor's benefits unless the spouse and former spouse choose to waive their receipts. Currently, an employee may opt out of survivor's benefits already agreed to, without notification of the spouse or former spouse. This legislation would require that employee and spouse or former spouse (if any) agree in writing to forego the survivor's benefit plan.

It is ironic that these outdated laws have been hardest on the woman who devotes herself entirely to the role of mother and homemaker. It is unconscionable that they should be "rewarded" in this manner. Certainly, it is time we viewed marriage as an economic partnership.

Heads of households Background

Heads of households are unmarried persons who provide a home for a child or elderly parent and a majority of support for that dependent. They are usually divorced or widowed women caring for minor children. Heads of households thus have the burden of maintaining a home and caring for dependents without the advantage of two wage earning adults.

Prior to 1975, heads of households could use the standard deduction (now zero bracket amount) used by married couples.

Beginning with the Tax Reduction Act of 1975, however, heads of households have been given a smaller zero bracket amount than married couples. Under current law, heads of households are entitled to a \$2,300 zero bracket amount. Married couples filing jointly are entitled to a \$3,400 ZBA.

Proposal

To amend the Internal Revenue Code to provide that the zero bracket amount for heads of households be equal to that of married couples filing jointly: \$3,400.

We should not place tax penalties on heads of households. They have even greater financial pressures than married couples. Eighty-four percent of heads of households are women; 22.3 percent are non-white. Practically no heads of households units have two earners, yet more than 50 percent of married couples have two earners.

We discriminate against heads of households in the Tax Code. We allow a smaller zero bracket amount for a group of taxpayers who have the same kinds of expenses, with typically lower incomes, than married couples. In 1978, the average income for a head of household was \$10,308; for married couples it was \$20,544. Married couples have incomes that average almost twice that of heads of households, yet heads of households have the same financial obligations of supporting a dependent and maintaining a home. This provision of our legislation would end the gross discrimination in the Tax Code against heads of households.

TITLE II—DEPENDENT CARE

Access to affordable child and dependent care is unquestionably the single most important factor in ensuring that women have the same ability as men to make judgments on entering the non-home job market.

The Federal government has traditionally recognized dependent care as a necessary business expense, and accorded it special tax treatment to reflect that reality. But the dependent care credit is more than simply a compensation for business expenses; it is a credit rather than a deduction because it fulfills the dual purpose of promoting a societal policy to ensure that the children of working mothers receive adequate care, nu-

trition, and supervision. Child care is not simply a "women's issue." It addresses a common responsibility shared by both working parents, as well as the welfare of the child itself.

The importance of access to affordable dependent care has risen dramatically with the increased participation of women in the non-home workforce. Consider the following trends:

Over the past twenty years, the number of women in the non-home workforce has increased from 23 million (35 percent, 1960) to 43 million (51 percent, 1980). By 1990 that figure will rise to more than 60 million women.

The trend toward lower birth rates has been more than counterbalanced by the trend toward increased participation in the labor force by mothers. The result has been a steadily increasing number of children in need of dependent care. In 1978, there were 30.1 million families with children under the age of 18 and 59.8 million children. The labor force participation rate for mothers and single fathers was 55 percent as compared to 42 percent in 1970, and the number of children with working parents increased by 18 percent for children under 18 years but by a striking 28 percent for children under the age of 6 years. Half of all children in the nation now live in families with working parents.

A shift in society's demographics has produced virtually an explosion in the number of single-parent families. Today there are 8.5 million single-parent families, a 75 percent increase since 1970, and 10 out of 11 of these families are headed by a mother. There are 11.5 million children in these single-parent families.

The fact that the amount paid for dependent care by working families shows no relation to income until family income exceeds \$50,000 is eloquent testimony to the fact that dependent care is not a matter of choice for most families. Most families that are unable to afford the cost of child care do not have the option of solving their child care problem by quitting work and staying home. Yet by BLS estimates, 25 percent of the nation's working families cannot afford access to market or paid care without some form of assistance. What's the alternative? Consider this quote from a witness during the Senate child care hearings in 1978:

"I work a PM shift and my husband works a day shift. I drop the children off at 2:30 p.m. and he picks them up at 5:30 p.m. I am half asleep when he leaves before 7:00 in the morning and he is asleep when I return home a little past midnight. This is a terrible way to live, but we cannot afford to spend \$400 per month for child care."

For families below the poverty line, lack of access to affordable child care is a significant deterrent to work-force reentry (or, conversely, an incentive to remain on public assistance). In a recent survey of poverty level families, 56 percent expressed the opinion that "it did not pay to work if they have to pay someone to take care of their children."

Congress took a major step toward meeting this need in the 97th Congress when it adopted a significant portion of the Economic Equity Act dependent care provisions. These provisions replaced the previous flat rate credit with a sliding scale that focused the maximum benefit of the credit on those least able to pay. Under the provision of the Equity Act adopted in the last Congress, the credit was raised to 30 percent of child care expenditures for taxpayers with incomes of \$10,000 or less, with the credit reduced by 1 percentage point for each \$2,000 of income between \$10,000 and \$28,000. The limits on eligible expenditures were increased to

\$2,400 for one dependent and \$4,800 for two or more dependents (from the previous \$2,000/\$4,000). Expenditures for services provided outside the home in facilities which care for more than 6 individuals are only eligible for the credit if the facilities comply with all applicable state and local laws and regulations. In addition, the bill provides that care provided by an employer may not be taxed as income to the employee if it meets certain specified conditions.

Two additional provisions were passed in the Senate, but did not survive the House-Senate Conference. One of those provisions made the credit refundable for those whose tax liability was insufficient to utilize the credit's incentives. The second was a provision to encourage employer provided dependent care by granting a special tax credit to employers providing such facilities.

Title II of the new Economic Equity Act supplements these accomplishments with five specific proposals:

1. *Treat a greater percentage of child care expenditures as necessary business expenses.* Title II raises the allowable credit percentage to a scale beginning at 50 percent for those earning \$10,000 or less, and ratcheting downward to 20 percent for those earning \$40,000. This portion of the new proposal represents the difference between what was proposed in last year's Equity Act and what became law in 1981. It is, in effect, a restatement of the Act's original position.

2. *Refundability.* The bill makes the dependent care credit refundable for those whose income is so low that they lack sufficient tax liability to make use of the credit. Many of the people in this category are those for whom the credit really does mean the difference between remaining on welfare and entering the workforce. But without refundability, the credit will have no impact on their lives, and the lives of those most in need of assistance. The Senate approved this provision in 1981, but it was dropped from the bill in the House-Senate Conference.

3. *Non-profit status of dependent care centers.* A quirk in current tax code definitions makes it difficult for child care facilities to qualify for 501(c)(3) status. The problem is that under present law, an organization can qualify for this status only if it is operated exclusively for educational or charitable purposes. There is question as to whether after school or infant dependent care centers fall within the ambit of the term "educational." The bill would redefine "educational purposes" to include nonresidential dependent care facilities that fulfill certain specified criteria.

4. *Information and referral services.* The bill establishes a "seed money" assistance program to establish child care information and referral services. New employment patterns—more work on split shifts, more employees on flextime—are creating a demand for non-traditional dependent care provisions. Locating compatible facilities for families with unusual needs can be a difficult job. Information and referral clearing-houses will help families locate the most appropriate child care services for their children. The clearing-houses will also enable providers to operate at or near full capacity, ensuring most efficient use of available resources. In addition, the clearing-houses will provide needed documentation on child care supply and demand at the local level. They can also provide a wide variety of additional services, such as technical assistance to providers, and cooperative programs with employers interested in establishing employer assisted dependent care programs.

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TITLE III—NONDISCRIMINATION IN INSURANCE

Despite progress in combatting sex discrimination in American society over the past decade, significant gaps remain. Perhaps none is so large and pervasive as that discrimination which occurs in the insurance marketplace.

This provision recognizes a national policy which has been appropriately reaffirmed over the past 20 years: That discrimination on the basis of race, color, religion, sex or national origin is unfair and unlawful. That policy is stated explicitly in the Economic Equity Act. That is as it should be, for it is fundamentally unfair to stereotype individuals on these bases. Different and unequal treatment of like individuals cannot be tolerated in the employment sector. Neither can it be tolerated in the insurance marketplace.

Continuation of discriminatory policies in insurance is discouraging in the abstract. But its practical ramifications, are even more distressing. For in an era in which over 40 percent of the workforce is women—and some 60 percent of those women work out of economic need—denial of access to insurance at fair rates has severe economic consequences.

For example, today there are reported to be 7.7 million single-parent families headed by women. These families are wholly dependent on females for financial support. Yet, the availability and scope of insurance available to them are minimized and the rates often maximized because of their sex. This policy can effectively prohibit women from achieving the basic insulation from financial loss that is the primary objective of insurance.

This is only one example of the effects of sex-based classification in insurance. Here are several others as they occur in various types of insurance:

In disability, many types of insurance benefits available to men are not available to women. While coverage has improved over the past few years, in some states, disability coverage is not available to women on any terms, at any price. In other states where it is available, its cost is significantly greater.

In health, waiting periods are usually much longer for women, and benefit periods shorter. Accordingly to a report on sex discrimination in insurance prepared by the Women's Equity Action League, it is not uncommon to find that, despite higher premiums paid by women, the benefits they receive are much lower. Pregnancy coverage, despite its centrality to women's insurance needs, is often unavailable.

In life insurance, coverage for women is often limited in scope and availability. Certain options, commonly available to men, have been restricted to women.

The same justification for differential rates can be made for discrimination against blacks because white persons as a group have a longer life expectancy than black persons as a group. However, such discrimination is now, and should be, totally rejected.

It must be understood that there is no objection to basing a life insurance policy on longevity. However, if sex is the only criterion used to determine longevity, it is clearly unfair and relatively unreliable. Instead of merging sex with all the other criteria affecting life expectancy, the tendency has been to concentrate exclusively on it. The industry has virtually ignored other, more accurate classification criteria, such as smoking habits, family health history, physical condition, recreational and occupational activities.

Recent investigations have demonstrated that some employer sponsored life insur-

ance plans charge women more for pension coverage on the assumption they will live longer, but charge them as much as men for life insurance. They thus ignored sex differences when they would have helped women. According to a study completed by Dr. Charles Laycock, a University of Chicago law professor, some companies make a smaller allowance for sex differences in life insurance, where the difference helps women, than in annuities, where the difference helps men.

Two years ago the Supreme Court, in the so-called *Manhart* decision, ruled it unlawful to treat "individuals as simply components of a racial, religious, sexual or national class." While this ruling applies only to employer operated insurance plans, the proposed bill expands the prohibition to private and individual plans, as well.

The insurance industry has claimed that some 19 states have already adopted a model regulation of the National Association of Insurance Commissioners which supposedly accomplishes the same objective as this legislation. Thus, the need for Federal legislation is eliminated, according to the industry.

However, this model regulation does not touch on the aspects of disparate rates and benefits—merely availability and scope. And even this incomplete regulation was watered down further by several of the 19 states which eventually adopted it.

It is important to stress there that the Non-discrimination in Insurance Act will in no way remove authority from the states to regulate the insurance industry. No federal mechanism for administration or enforcement is established, and not one bureaucrat would spring into being as a result of this bill.

Classification by sex is clearly not a business necessity. It was adopted by the industry only 30 years ago as a convenient, though incomplete, method of classifying risks. While it may require minor cost adjustments in some policies and practices, such an argument cannot be used as a defense for discrimination.

Again, researchers have helped dispel a myth commonly touted by the insurance industry, that if sex differences are ignored, one sex will subsidize the other, the subsidizing sex will quit buying insurance, throwing off the necessary balance in insurance pools. If that were true, according to Professor Laycock, we would have encountered the same problems with respect to all the other groups for which the insurance industry does not compute separate actuarial tables.

We have discussed previously the differential in longevity statistics between blacks and whites. But whites have not stopped buying life insurance. Rich people live longer than poor people, but rich people have not quit buying life insurance. The difference in life expectancy between highly and poorly educated women is greater than the difference between the sexes, but educated women have not quit buying life insurance. The difference in life expectancy between married and single men is greater than the difference between the sexes, but married men have not quit buying life insurance.

These and other examples demonstrate that differences in group averages of this magnitude do not cause members of the lower risk group to go uninsured, and no unmanageable problems result. Where unisex automobile insurance is used, as it has been in three states, it was worked: no unmanageable problems result, and rate changes between the sexes have been insignificant.

TITLE IV—REGULATORY REFORM

Title IV requires the head of each Federal Administrative and executive agency to con-

duct a review of agency regulations, to rewrite those which make sex based distinctions so that they are sex neutral, and to refrain from promulgating future regulations which contain gender based distinctions unless the subject matter specifically applies only to one sex, or the words used do not result in sex based discrimination. This section would codify a Presidential directive of August 26, 1977, requiring all executive department and agencies to identify "regulations, guidelines, programs, and policies which result in unequal treatment based on sex and to develop proposals to change any laws, regulations, and policies which discriminate on the basis of sex." The Justice Department Task Force on Sex Discrimination has made a comprehensive review of the federal code, and isolated several hundred regulations containing meaningful gender based distinctions.

Although some agencies have made significant progress in eliminating these distinctions, compliance with the directive have been uneven. The simple fact that six years after the directive well over 100 of these distinctions remain in the federal code as well as the policies and regulations of federal agencies provides a compelling argument for elevating the directive to the status of statute law. It is also essential to recognize that unless the ban on discriminatory regulations is made permanent, there is no guarantee that development of sex biased regulations will not continue in the future.

The Economic Equity Act (EEA) addresses these problems by giving the Presidential directive the force of law. It provides a permanent mandate to agencies, and requires administrators to use the regulatory process to reform discriminatory regulations within their purview. It will significantly strengthen the hand of the Justice Department in carrying out its oversight function. In its practical impact, this section may well prove to be the most significant in the Economic Equity Act.

Title IV also alters the present gender construction rule in the U.S. Code to remove the existing reference to "masculine gender" and "feminine gender."

NEW TEXT OF THIS SECTION

SEC. 301(a). The head of each Federal Executive Department and administrative agency shall conduct a review of the regulations, guidelines, programs and policies of that department or agency to identify all such regulations, guidelines, programs and policies which result in unequal treatment based on sex. The head of each executive department and administrative agency shall develop and implement proposals to make all such regulations, guidelines, programs and policies sex neutral, and shall develop proposals to alter any laws implemented, administered or enforced by the agency to insure that their impact does not discriminate on the basis of sex.

CHILD SUPPORT ENFORCEMENT—TITLE V OF THE ECONOMIC EQUITY ACT

Child support enforcement is a critical economic issue to women who head single parent families. When absent fathers shun their financial responsibility toward their children, the mother pays. If mothers go on welfare, the taxpayer assumes the fathers' child support obligations.

There were 8.5 million single parent families in the U.S. in 1980, 21 percent of all families, an increase of over 100 percent from 1970. Statistical trends indicate that the number of single parent families will continue to increase. Women head 90 percent of these families.

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Divorce has contributed to the rise in single parent families. Since 1974, all but two states have adopted some form of no-fault divorce and the divorce rate has doubled. Every year there are almost half as many divorces as marriages—about 1.2 million divorces involving the same number of children. The Census Bureau predicts that only half of all children born this year will spend their entire childhood living with both natural parents.

Divorce can alter a woman's economic status overnight. Divorce sharply decreases the family income for the mother in a two-earner family. Divorce is especially catastrophic for the "traditional" homemaker who is all of a sudden thrust into a labor market for which she is not prepared. Since the mother becomes the custodial parent after divorce, in most cases, her lower earning capacity, coupled with the expenses of raising a child, means she will suffer a steep decline in income.

Statistics on the poverty status of female single parent families illustrate the economic consequences of divorce:

Half of all children in poverty live in female-headed families (51.6 percent or some 5.8 million children).

Mean income of female headed families was only 42.2 percent of two-parent families' income (\$10,560 versus \$24,927).

In 1979, almost half of female-headed families (47 percent) received Aid to Families with Dependent Children (AFDC).

In 1979, two thirds of the children in female-headed families depended on AFDC.

Most AFDC recipients (87 percent) are eligible because parents of the children were divorced, separated, or not married.

Women raising children alone are having a hard time providing their children with basic necessities such as food, clothing, shelter, and adequate health care. For these women, regular child support payments are crucial to their children's economic stability. It is a bread and butter issue.

Court ordered child support payments, however, are usually not paid. In 1978, the Census Bureau found 41 percent of custodial mothers receive no child support awards, although they are potentially eligible. They and their children depend entirely on their own earnings, support from friends or relatives, or public assistance. Their mean income in 1978: \$4,841. Of the 59 percent of custodial mothers with child support awards, 28 percent received nothing. Their mean income in 1978: \$6,200. Of the 59 percent of custodial mothers with child support awards, and 23 percent received partial payments and only 49 percent received the full amount. These women got an average of \$1,800 annually. Their mean income in 1978: \$5,944.

The amount of support typically ordered does not cover even half of the cost of actually raising the children. It is estimated in a given year, only 3 percent of eligible female-headed families receive enough child support and alimony to put them over the poverty level. One third of all AFDC families with an absent parent should be receiving child support, but only one in seven of those families does.

The many studies on the subject all point to the same conclusion: fathers don't pay their child support. Of the \$6.9 billion due from fathers in 1978, only \$4.5 billion was ever paid. Between a quarter and a third of fathers never make a single court ordered payment. Not one study has found a state or a county in which more than half the fathers fully comply with court orders. Many fathers pay irregularly and are often in arrears. In several studies, the arrearage is for half or three-fourths the amount owed, and in one study it reached 89 percent.

According to a 1973 Michigan study, patterns of payment have no relation to the father's income: about 80 percent of fathers earning below \$5,000 paid nothing, but about 52 percent of fathers earning over \$10,000 also paid nothing. The economic circumstances of single fathers are usually better than while they were married. A California study of 3,000 divorced couples found that a year after divorce, the wife's income dropped by 73 percent while the husband's rose by 42 percent.

In 1975, Congress established the Child Support Enforcement program, Title IV-D of the Social Security Act. It requires each state to have an approved program of child support enforcement, including measures to establish paternity, locate missing fathers, establish or modify child support orders and collect court-ordered support payments. The program is intended to serve both AFDC and non-AFDC families with the latter being charged fees for services provided.

The Child Support Enforcement program is a good beginning, but more needs to be done to help women who are seeking child support for their children. Under the Title IV-D program, states were able to collect on only 10 percent of the AFDC caseload of 5.5 million and only 30.6 percent of the non-AFDC caseload of 1.5 million. Although the program collected \$1.8 billion (\$1 billion for non-AFDC families and \$800 million for AFDC families) in 1982, not one state or county had even 50% of compliance with court orders.

The program still must do more to help women who need their child support awards to stay off welfare. It must also be more of a mechanism to help non-AFDC mothers whose children are equally entitled to their court ordered support payments.

The program has been set up primarily as a means of recovering some of the AFDC funds paid to single-parent families. Thus, when a woman with low or no earnings and no or irregular child support is finally reduced to applying for AFDC, she is required to "assign" her child support to the state. The state, in turn, then begins to pursue the court ordered child support. If the support collected is less than the AFDC paid to the mother, the federal and state governments keep the funds as partial compensation for welfare paid to children whose fathers should have been supporting them. Only when the amount of support collected exceeds the amount of the family's welfare grant does the family leave the welfare roles and begin to rely on child support. If the child support lapses, the family returns to AFDC and the cycle begins again. It is clear, however, in pursuing AFDC cases, state programs focus on benefitting government, not the family.

The availability of assistance is scarce for the woman who refuses to apply for AFDC, earnings are too much for her family to qualify for AFDC (cutoff levels are below fulltime minimum wages in many states), or is a middle-class single mother. She suffers a litany of child support problems: non-payment beginning a very short time after the support award; repeated trips back to court accompanied by increased lawyer expenses; loss of pay or leave time at work; anxiety about not knowing whether child support will be available to help meet household bills; having to borrow from friends and relatives.

In many cases, this scenario is compounded by the fact that the father has moved to another state or to an unknown address—a situation that adds to the expenses.

As a single mother pointed out in the February, 1982 Working Women article on child support:

"My divorce was so traumatic that at first I couldn't bring myself to go back to court about child support even though my former husband stopped paying me after the first month. When I finally forced myself to file a petition for the money . . . that my ex owed me, he was \$8,000 in arrears. I was then making \$15,000 a year and he was earning over \$30,000. But he kept finding excuses not to pay me the \$300 a month ordered by the judge for (my son's) support. I had to borrow from my relatives. It was humiliating. I've been to court so many times that I've lost count. . . . My rent bill is coming due—\$400—but I don't want to go to court again."

Theoretically, Title IV-D calls on states to provide services to non-AFDC cases as well as to AFDC cases. In practice, it is a different story.

Most states do not actively seek or service non-AFDC cases. In one state, out of 170 child support personnel, only 8 work on non-AFDC cases. In another, there is a very low means test and if a mother's income is too high, she is put on a waiting list for two or more years.

Although there are many reasons for lack of interest in non-AFDC cases, one disincentive is built into the federal assistance structure: states can actually "make money" by collecting on AFDC cases, while they must spend 30 cents of every dollar used to collect non-AFDC support. Therefore, many states do not advertise their non-AFDC program and subject those who find out about it to long waits or ineffectual service.

Interstate cooperation is spotty. There is little effective incentive for a state to go after an absent parent to get support for a family living in another state. Yet, absent parents frequently cross state lines, perhaps several times, in order to avoid payments.

State child support and enforcement laws are uneven and inconsistent. Particularly for families not on welfare, there often appears to be little motivation or means for courts or administrative offices to see that the laws or support orders are enforced. Often the laws and procedures available in AFDC cases—such as computerized access to wage records, automatic wage—withholding when there has been an arrearage, income tax offsets—are not provided for non-AFDC enforcement.

Courts are crowded and often ill-equipped to deal with the flood of child support cases. Mothers must repeatedly seek enforcement. In virtually every state, cases in family courts can drag on for weeks and months.

WHAT CHANGES ARE PROPOSED IN THE ECONOMIC EQUITY ACT ON CHILD SUPPORT ENFORCEMENT?

1. Purpose.—The Act would provide a clear statement of purpose for the Title IV-D program where none now exists. It would make clear that Congress intends for this program "to assure compliance with obligations to pay child support to each child in the U.S. living with only one parent." The intent of the "purpose" clause is to explicitly affirm that the program is to secure child support for the non-AFDC cases as well as for AFDC cases.

2. Income Tax Offsets.—Under present law, states can notify IRS of absent parents who owe past-due child support to children receiving AFDC. These amounts are then withheld from the absent parents' federal income tax refunds and used to reimburse federal and state governments for AFDC paid to the children. The Act would provide that states could use the same procedure on behalf of children not receiving AFDC and the proceeds would be paid to the custodial parent.

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3. Improved State Administration of both AFDC and non-AFDC cases.—The Act would require that states, as a condition of an approved IV-D plan:

Seek medical support for children for whom it is seeking financial support when available at a reasonable cost through employer-sponsored health insurance;

Provide for mandatory wage assignments (withholding) in the case of delinquent child support;

Impose liens against property and estates when child support payments are delinquent;

(In the case of states which impose income taxes) provide for offset against tax refunds to collect past-due support;

Establish quasi-judicial or administrative procedures to establish and enforce support orders (to provide an efficient, accessible and effective means of resolving support disputes without overburdening the court system);

Establish a child support clearinghouse which would monitor the timeliness and accuracy of payments of support ordered, modified or enforced in the state after its establishment. The clearinghouse would trigger appropriate enforcement mechanisms when payments are late.

States would also be required to implement at least three of the following:

Voluntary wage assignment, so that individuals who wish to have child support automatically withheld from their paychecks can be sure that their employers will do so;

A standard used by the courts and administrative processes to measure the ability of absent parents to make support payments and guidelines to insure the similarity of support orders in similar cases;

A procedure to enter a default when alleged father refuses to participate in paternity procedures, so that paternity can be established by the court and support awarded;

The use of highly accurate scientific tests to determine the likelihood of paternity, and

The authorization for the court to require a security, bond, or other guarantee to secure the child support obligation.

Financing.—The Child Support Clearinghouse in each state would be financed from the existing 90 percent federal funding provided by IV-D for planning and implementing computerized child support enforcement systems.

The other changes are not expected to impose substantially higher costs on states and may, in fact, achieve savings or be cost-neutral by enabling states to enforce support more effectively and efficiently.

B. Federal mandatory wage assignment

1. Create a new procedure for mandatory assignment of wages and pensions for all federal civilian employees.

2. Direct the Department of Defense and the Office of Personnel Management to work with the 53 States and Territories to develop a standard procedure, format and set of forms to be used by States in notifying federal civilian and military employers of child support obligations for which a wage assignment has been ordered.

3. Apply wage assignment automatically when child support is ordered, modified, or enforced by the states.

Comments: This approach builds on the wage assignment procedure enacted in 1982 of military wages.

It is appropriate that the federal government provide a positive example to states and localities which are considering adoption of similar techniques to be applied to their own employees.

The Federal government is the largest employer in the nation. Mandatory assignment

of earnings of federal employees would make a substantial contribution to child support collections.

By applying wage assignment automatically when child support is ordered, the child is assured of receiving the support they are entitled to on time. Also, by making the assignment automatic, it removes child support payments from any emotional confrontational situations that may occur after divorce.

Mr. MATHIAS. Mr. President, I am very pleased to cosponsor two pieces of legislation vital to the economic well-being of American women: S. 501, the Sex Discrimination in the United States Code Reform Act, and S. 888, the Women's Economic Equity Act (WEEA). These two bills, if enacted, will bring this Nation a little closer to the realization of full economic equality for women and men.

S. 501 would remove approximately 100 instances of discriminatory gender-distinctive language from the United States Code. While some of the bill's provisions would have limited impact on the lives of women, others would bring about important substantive reforms in several Federal retirement plans and in the promotion systems of certain components of the military.

WEEA is a package of reforms aimed at the direct and indirect economic effects of discrimination on women. WEEA would ban discriminatory insurance practices; it would alter pension, tax, and retirement plans to accommodate the special needs of women and homemakers; and, it would strengthen enforcement of child support and increase the availability of child care services—two areas seriously in need of reform if women are to participate effectively in the work force and gain full economic independence.

The sponsors of S. 888 and S. 501 understand that the women of this Nation urgently need financial security. At a time when more and more women are entering the work force out of economic necessity, and as the "feminization of poverty" continues to pervade our society, it is clear that women must achieve economic equity in order to support their families and plan for their retirement. WEEA and the substantive provisions of S. 501 will help women attain the economic security and independence they need to survive.

However, Mr. President, neither initiative is meant to be an alternative to or a substitute for the Equal Rights Amendment. I know that I speak for many of my colleagues when I declare that we will not be satisfied until the ERA becomes part of the U.S. Constitution. Although we are committed to the passage of every piece of legislation, large or small, that promotes equity among men and women, we will not endorse the piecemeal approach as a satisfactory means for achieving equal rights. We will rest at nothing short of a constitutional guarantee of equality for all Americans. We will not consider ourselves successful in our en-

deavor or faithful to our promise to the women of this Nation until the Equal Rights Amendment has been ratified and put into effect.

Mr. PACKWOOD. Mr. President, I am pleased to reintroduce along with Senators DURENBERGER, HAITFIELD and HART. The Economic Equity Act of 1983.

Two years ago, the Economic Equity Act was introduced by a bipartisan coalition of 26 Senators. Parallel legislation in the House drew more than 100 cosponsors, and the Equity Act proved to be the bellwether legislation on equal economic rights for men and women in the 97th Congress.

The bill drew editorial endorsement from dozens of newspapers across the Nation and from virtually all of the organizations advocating equal economic rights for women. Four parts of that bill became law; namely, equal access to agricultural credit, child and dependent care reform, repeal of the "widow's" estate tax and military and foreign service pension reform. Significantly, S. 888 focused public attention on the concept of "economic equity," a phrase that now echoes from the pages of individual commentators to the state of the Union address of the President of the United States.

The Economic Equity Act of 1983 embraces measures that did not become law during the 97th Congress, and addresses several new issues of importance to the women of our Nation.

The Economic Equity Act proposes solutions to some of the foremost inequities in our system today. Although the issues selected are not inclusive of all necessary changes, the women of the United States deserve immediate correction of, at least, these.

Let me highlight several:

First, women in the work force do not receive equal treatment under current pension laws. The Economic Equity Act seeks to reform both private and public pension laws by establishing pensions as a legitimate property right, by requiring written consent of the spouse before the retiree can waive survivors benefits, and by modifying break-in-service rules to give 20 hours per week credit for up to 1 year of employer-approved maternity or paternity leave, provided that the worker returns to his or her job.

Those women who choose to remain at home, with no outside income, have no mechanism under current law to provide for their own retirement. This bill proposes to recognize alimony and child support payments as earned income, so that these women may establish an individual retirement account in their own right.

Second, over the past generation, insurance companies have increasingly relied on gender to impose higher rates or lower benefits to women. The Economic Equity Act will prohibit discrimination in insurance on the basis of sex.

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Third, children the end of the line to 50 percent of the total workforce who are sufficient to exist. Fourth, have a through disability. The Economic Equity Act hires credit to Fifth, families headed by single women. The Economic Equity Act holds is Sixth, also a cr who has been forced to port pay Act will stricter ly, security AFDC ce The Economic Equity Act that the status of Out of active in go home Mr. President, I seek to Equity Act legislation Congress in asking proposals our Nation Mr. President, today I join my colleagues for Packwood in introducing the Economic Equity Act of 1983. Bridgette B. underscore women in it gains services. Clearly, times, it maker of ore—who the most world: And the population of men be Women men earn listed by

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Third, workingwomen with young children need financial help to offset the enormous costs of day care relative to their salaries. This bill increases the dependent care tax credit to 50 percent, and makes the dependent care credit refundable for those whose income is so low that they lack sufficient tax liability to benefit from the existing credit.

Fourth, displaced homemakers, who have lost their source of support through separation, divorce, death or disability of their spouses, need financial stability and marketable skills. The Equity Act will add displaced homemakers to the list of eligible hires under the targeted jobs tax credit to employers.

Fifth, 90 percent of all single parent families in the United States are headed by women. Women heads of households have the burden of maintaining a home and caring for dependents without the advantage of two wage earning adults. The Economic Equity Act proposes to amend the Internal Revenue Code so that the zero bracket amount for heads of households is equal to that of married couples filing jointly.

Sixth, child support enforcement is also a critical economic issue to women who head single parent families. Between one-quarter and one-third of divorced or estranged fathers never made a single court-ordered child support payment. The Economic Equity Act will encourage broader and stricter child support laws: specifically, securing child support for non-AFDC cases as well as for AFDC cases.

The Economic Equity Act recognizes that there has been a revolution in the status of women in the United States. Out of the nearly 50 million women active in the labor force, many will not go home—permanently—again.

Mr. President, my cosponsors and I seek to insure that the Economic Equity Act of 1983 is the bellwether legislation on equal rights in the 98th Congress. We join with our supporters in asking that Congress make these proposals a reality for the women of our Nation.

Mr. HATFIELD. Mr. President, today I join Senator DURENBERGER, my colleague from Minnesota, and Senator PACKWOOD from Oregon, in introducing the Economic Equity Act of 1983. Bringing together numerous legislative proposals within a single bill underscores the economic plight of women in a way that will help assure it gains the attention and focus it deserves.

Clearly, in economically difficult times, it is often the woman—as homemaker or employee, widow or divorcee—who suffers most. Even now, in the most developed country in the world: American women, 53 percent of the population, still are not the equals of men before the law.

Women earn only 59 percent of what men earn. Of the 441 occupations listed by the U.S. Census Bureau,

women are concentrated primarily in the 20 lowest paid job classifications. And when you look at the median full-time earnings of workers over 16, you will find that men earn an average of \$17,043 per year, while women earn only \$10,232.

The economic plight of today's American woman is even greater than it was a few decades ago. In the last 50 years, the number of families headed by women had tripled. Almost 1 family in 3 is headed by a woman, compared to about 1 in 18 headed by a man.

One out of three of these families which depend on women for their sole source of support, live below the poverty line. This figure compares to 11 out of 19 husband-wife families, and 1 out of 9 maintained solely by men. Today, women are 42 percent of the labor force, yet they comprise over 66 percent of the people living in poverty.

Older women, the fastest growing poverty group in America, suffer under inequitable social security and pension laws; 81 percent of women over 65, not residing with relatives, live below the poverty line.

Despite their tremendous contribution to home and family, homemakers have no legal or economic status, and little or no protection upon retirement or disability. In many States, and in the Federal Government, laws on support, poverty, pensions, divorce, and/or inheritance discriminate against the homemaker.

The Economic Equity Act of 1983 proposes reforms in pension and tax policy, insurance, Government regulations, dependent care, and child care enforcement which will help eliminate unequal treatment in the economic arena. This is legislation which does not impose greater Government control, nor increase significantly the cost to taxpayers, but rather remedies economic disadvantage to women in our society.

It is indeed discouraging that the economic plight of women in 1983 is even more serious than it was a few decades ago. It is time we end this needless suffering under the weight of inequitable laws. A failure to remedy this fact would constitute a tragic and disgraceful abandonment of a major sector of our society. It is my deepest hope that the administration and Congress will grasp the urgent need to respond meaningfully to their plight.

Mr. TSONGAS. Mr. President, I am proud to join today with 25 of my colleagues in reintroducing the Economic Equity Act. The legislation would end economic discrimination against women in this country. The bill was first introduced in the Senate 2 years ago. It is high time that this eminently reasonable and highly worthwhile bill was enacted into law.

Women still face economic barriers in a host of Federal laws and regulations and in many common practices among employers and government agencies. The Economic Equity Act would combat this discrimination in

several areas that I would like to stress.

First, it would remove obstacles to employment. It would provide, for example, tax credits to employers who hire displaced homemakers. The tax incentive would put inexperienced but trainable women to work and thereby ease their entry into the work force.

Second, the bill would equalize the status of women in marriage. Now women are penalized if they obtain a divorce, leave a job to have children or simply live longer than their husbands. This legislation would redress those problems. It would rectify the inequities in pensions, insurance policies, and individual retirement accounts.

Third, the Economic Equity Act would strengthen child care benefits so more women, especially single parents, can work if they so choose. Far too many women must live at the poverty level because the high cost of day care prevents them from holding down a job. This bill would alter Federal income tax law to treat a greater percentage of child care expenditures as a necessary business expense. It would also make the day care credit refundable for those whose income is so low that they lack a large enough tax liability to use the credit.

Last, widowed or divorced Foreign Service homemakers would receive fairer treatment under this legislation. Women who had been married to Foreign Service employees for at least 10 years would have the right to share in the benefits that accrued during the marriage.

Mr. President, the Economic Equity Act is a significant reform that the Senate should support because it is good social policy and fair. I urge my colleagues to endorse this legislation.

Mr. KENNEDY. Mr. President, I am pleased to join this bipartisan effort to enact a new declaration of economic independence for women in the 1980's.

For too long the majority of Americans who are women have been forced to accept second-class status and second-rate economic opportunities in our society. These inequities exist for women whether they are young or old, single, married or divorced, and whether they are employed in the workforce or work at home.

The Economic Equity Act is a comprehensive effort to insure that women are treated fairly and justly by our legal system. It is a major advance in our efforts to eliminate discrimination against women in every aspect of economic life.

Women who work continue to be disproportionately represented in low-paying, dead end jobs which offer little job security and little opportunity for mobility or advancement.

Women who choose to spend their working lives at home raising and caring for a family often find their labor unrewarded because the law does

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not provide the measure of protection they deserve.

The high cost of child care places an intolerable strain on many families and often prevents women from entering the work force.

The insurance system discriminates against women by denying them fair rates for basic protection from financial loss.

The private pension system makes it too difficult for working women to qualify for pension benefits, and in many instances, unfairly denies non-working spouses the benefits which their husbands have earned.

The bill we are introducing today addresses each of these problems. It represents a truly comprehensive effort to provide millions of women with an equitable measure of economic security, regardless of age, marital, or employment status. And it affirms our belief that, as we carry on the struggle to make the equal rights amendment a part of the Constitution, we must also make a comprehensive effort to amend the statute books to establish the full economic rights of women.

Mr. HART. Mr. President, I am proud to join my colleagues in the reintroduction of the Economic Equity Act. Economic equity is a paramount issue not only for women but for the men and children whose lives are strongly linked to theirs.

Without economic equity, there can be no justice. Government policies have been vital to the progress we have made toward equality for women and the Economic Equity Act is the next step in that progression. It is necessary in updating outmoded provisions of the law as they pertain to women.

It is not possible for one legislative measure to correct all the inequities and forms of discrimination women encounter. But, the bill recognizes women do not receive fair treatment under our current pension laws, and seeks to remedy that.

The Economic Equity Act proposes changes so women heads of households are treated more equitably under our tax laws.

Three million displaced homemakers without income, or marketable skills find hope through this bill as it provides a tax credit to encourage employment of these individuals.

While in recent years, we have moved toward a greater reliance on individual retirement plans, there has been no adjustment for those women who choose to remain at home with no outside income and have no way to provide for their own retirement. One way the Economic Equity Act addresses this problem is by allowing women to establish their own individual retirement accounts.

As a nation we must admit that throughout the 1980's and into the 1990's, growing numbers of children will need child care—care by an adult other than their parents for some part of each day. Each year, more and more

mothers, especially those with young children, join the labor force. The need for infant care is climbing steadily, and older children need care after school.

Child care demand is increasing, but it is also diversifying. New employment patterns create a demand for nontraditional child care provisions. Locating compatible child care facilities for families with unusual need—such as night shifts—can be a difficult task.

The Equity Act provides for a Federal grant program to fund new or existing child care information and referral clearinghouses. These clearinghouses will work with families and providers to make the most efficient use of available resources by matching supply with demand.

However, the clearinghouses can also generate information and serve as a data base for documentation on child care supply and demand at a local level.

I have only mentioned some of the major provisions of this measure. There are others like the child support enforcement section which is extremely timely and important.

Mr. President, I commend Senator DURENBERGER and the other original sponsors of this bill. They have worked tirelessly in designing this legislation and they should be proud of the final product.

I pledge to work with them on striving for enactment of the Economic Equity Act. That goal must be attained.

By Mr. SPECTER:

S. 889. A bill to authorize appropriations for the purpose of carrying out the National Violent Crime Program of the Department of Justice for fiscal year 1984, and for other purposes; to the Committee on the Judiciary.

DEPARTMENT OF JUSTICE NATIONAL VIOLENT CRIME PROGRAM AUTHORIZATION ACT, FISCAL YEAR 1984

Mr. SPECTER. Mr. President, I rise today to offer a bill for the authorization of substantial funding to fight violent crime in the United States. This bill, and an accompanying 44-page statement, represents the work of my staff and me over the past 2 years and is based upon hearings in the Judiciary Committee, experience as District Attorney of Philadelphia, and the work in 1973 of the National Commission on Criminal Justice Standards and Goals, of which I was a member.

The essence of this proposal is to devote substantial Federal funding to the attack on violent crime. It would direct 1 percent of the Federal budget for "domestic defense" with a goal of cutting violent crime in this country by 50 percent.

We appropriate additional billions for necessary foreign defense. But statistics show that last year murders in the United States claimed 23,000 victims, compared to zero for all of our foreign enemies.

The time has come for a concerted attack on violent crime in the United States. My judgment is that the people of this country are prepared to pay for an attack on violent crime if it is well-conceived and well-executed.

The State of California has become well known for being parsimonious, as the originators of proposition 13 to cut governmental expenditure. But the State of California in a recent referendum approved substantial sums of money in recognition of the need for funding more work on the problem of violent crime.

The proposal which is advanced here today would attack the problem of violent crime on all levels: to emphasize the necessity for tough sentencing by trial judges, to provide correctional facilities where there can be realistic rehabilitation efforts for adult offenders on their first and second offenses so that we do not turn out functional illiterates without skills, who, not surprisingly, return to a life of crime, and, where we have career criminals, in effect, to throw away the key once we have multiple offenses by the same individual and the prior convictions have been established.

This same program would also be directed against the crime cycle of the juvenile offender, where a juvenile is a delinquent at 6 or 7, a truant at 8, vandalism at 10, robbery at 15, and armed robbery and murder at 17.

The objective of this program, and I think its importance, would be to cut violent crime by 50 percent, primarily by directing greater attention to the career criminals. According to best estimates, there are approximately 200,000 career criminals in this country at the present time. If we could surely separate them from society, I think we could actually reduce violent crime by 50 percent.

NATIONAL PROGRAM TO CUT VIOLENT CRIME

The United States now suffers four times more violent crime, per capita than in 1945 and 20 to 100 times more than other industrial democracies. Random violence afflicts 1 in 3 American households every year, serious crime, 1 in every 3. The total loss to our society reaches \$100 billion a year.

Domestic criminals have succeeded where foreign armies failed: They have terrorized not only millions of victims, but all Americans, denying our constitutional rights and our alienable birthright to the pursuit of happiness. According to repeated polls of public opinion, Americans worry more about crime than anything except economic distress. Not even the Soviet threat is viewed as more ominous.

Most violent felonies are premeditated crimes for profit, committed without passion or provocation, against strangers by repeat offenders whose chosen livelihood is to prey on the vulnerable. Although an arrest is made, only 1 felony in 5, most of these crimes